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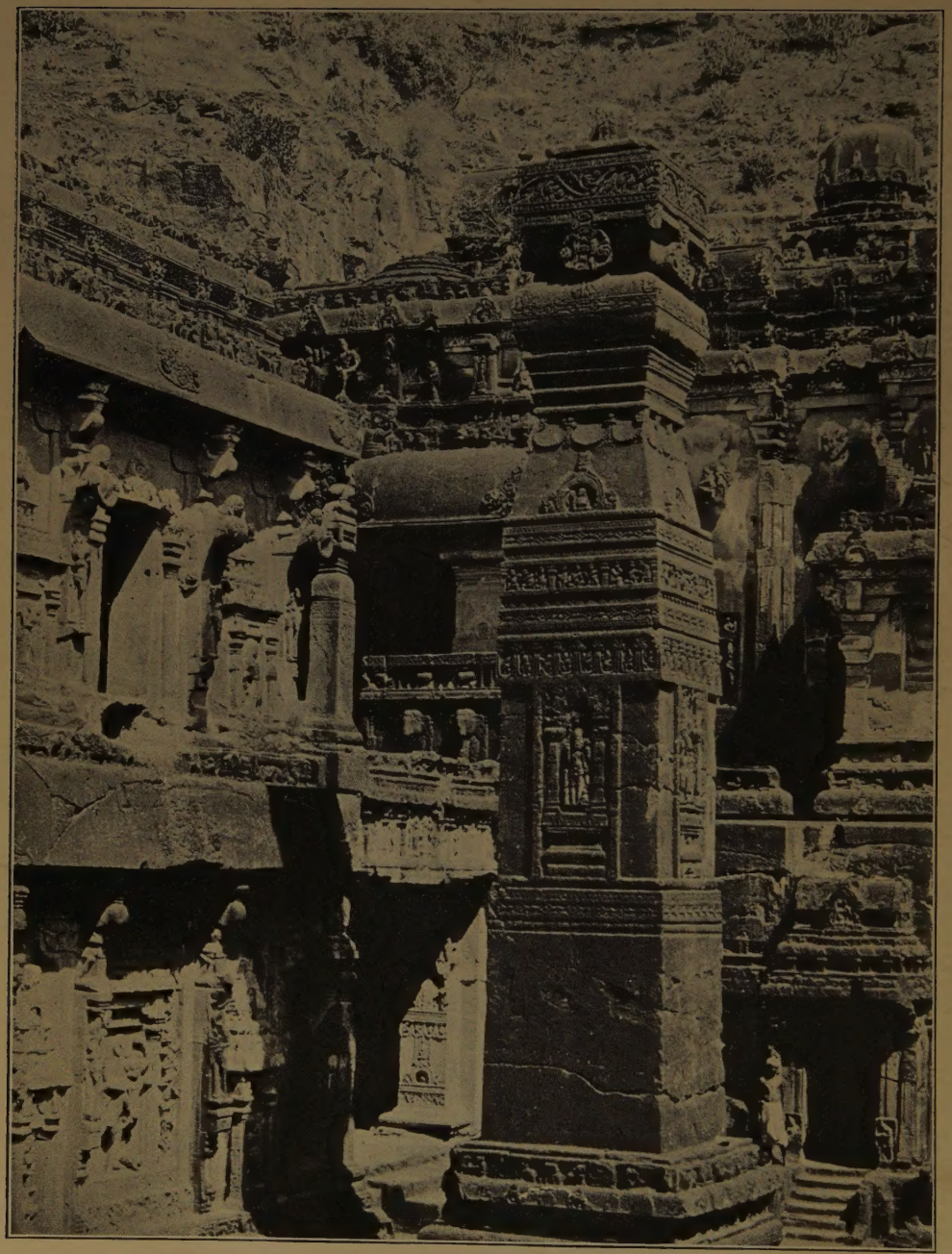

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THE SUPREMACY OF PARLIAMENT

THE CIVIL WAR betweeen Charles I. and parliament was decided by the genius of Oliver Cromwell. The effect of this success was the supremacy, not of parliament, but of Cromwell and his Puritan standing army. England was ruled by a small minority. After Cromwell's death, the Presbyterians, who had originally opposed Charles I., combined with the Episcopal cavaliers to recall his son. The hatred of such religious zeal as the Puritan's and of the tyranny of the standing army brought the great majority of the nation to the support of the new king. But soon the control of parliament over the king's expenditures and the leaning of Charles II. toward Catholicism were the causes of new irritation. The House of Commons felt compelled to strengthen the right of *habeas corpus* based on the personal liberty clause of the Magna Charta, and the measure passed the House of Lords by overlooking the fact that Lord Gray had counted a particularly fat man as ten for the bill. This famous act (1679) is one of the greatest safeguards of personal freedom.

James II. came to the throne (1685), destined to be overthrown. He was a Catholic and England was fiercely Protestant; he tried to rule arbitrarily as if by divine right, when most of England believed in a representative government. He dissolved parliament, packed the Courts, issued a declaration of religious indulgence, in spite of the fact that Charles II. had been compelled to withdraw a similar decree, and tried to get together a parliament that would sustain him. The birth of an heir roused England with the fear of a continuance of Catholic kings and both Whigs and Tories combined to call William of Orange and his wife Mary, the nephew and niece of Charles II., to the throne. James,

entirely deserted, fled, and the crown passed to Protestant rulers, on the distinct understanding of the supremacy of parliament contained in the Bill of Rights. The Puritan Revolution had reached its logical conclusion.

HABEAS CORPUS ACT

(1679, May 26. 31 Charles II. c. 2. 5 S. R. 935. Stubbs, Select Charters, 517-521.)

WHEREAS great delays have been used by sheriffs, gaolers and other officers, to whose custody any of the king's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of *habeas corpus* to them directed by standing out an *alias* and *pluries habeas corpus* and sometimes more, and by other shifts to avoid their yielding obedience to such writs, contrary to their duty, and the known laws of the land, whereby many of the king's subjects have been and hereafter may be long detained in prison in such cases where by law they are bailable, to their great charge and vexation.

II. For the prevention whereof and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters; be it enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority thereof, that whensoever any person or persons shall bring any *habeas corpus* directed unto any sheriff or sheriffs, gaoler, minister or other person whatsoever for any person in his or their custody, and the said writ shall be served upon the said officer or left at the goal or prison with any of the under officers, under keepers or deputy of the said officers or keepers, that the said officer or officers, his or their under officers, under keepers or deputies, shall within three days after the service thereof as aforesaid (unless the commitment aforesaid were for treason or felony, plainly and specially expressed in the warrant of commitment) upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the judge or court that awarded the same and endorsed upon the said writ, not exceeding twelve pence per mile, and upon security given upon his own

bond to pay the charges of carrying back the prisoner, if he shall be remanded by the court or judge to which he shall be brought according to the true intent of this present act, and that he will not make any escape by the way, make return of such writ; and bring or cause to be brought the body of the party so committed or restrained unto or before the lord chancellor or lord keeper of the great seal of England, for the time being, or the judges or barons of the said court from whence the said writ shall issue, or unto and before such other person or persons before whom the said writ is made returnable, according to the command thereof; and shall then likewise certify the true causes of his detainer or imprisonment; unless the commitment of the said party be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing, and if beyond the distance of twenty miles and not above one hundred miles, then within the space of ten days, and if beyond the distance of one hundred miles, then within the space of twenty days after such delivery aforesaid, and not longer.

V. And be it further enacted by the authority aforesaid, that if any officer or officers, his or their under officer or under officers, under keeper or under keepers, or deputy, shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner or person in his behalf, shall refuse to deliver, or within the space of six hours after demand shall not deliver, to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they are hereby required to deliver accordingly; all and every the head gaolers and keepers of such prisons, and such other person in whose custody the prisoner shall be detained, shall for the first offense forfeit to the prisoner or party grieved the sum of one hundred pounds; and for the second offense the sum of two hundred pounds and shall and is hereby made incapable to hold or execute his said office; the said penalties to be recovered by the prisoner or party grieved, his executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint or information, in any of the king's courts at Westminster, wherein no essoin, protection, privilege, injunction, wager of law or stay of prosecution by *Non vult ulterius prosequi* or otherwise shall be admitted or allowed, or any more than one imparlance; and any recovery or judgment at the suit of any party grieved shall be a sufficient conviction for the first offense; and any after recov-

ery or judgment at the suit of a party grieved for any offense after the first judgment shall be a sufficient conviction to bring the officers or person within the said penalty for the second offense.

VI. And for the prevention of unjust vexation by reiterated commitments for the same offense; be it enacted by the authority aforesaid, that no person or persons, which shall be delivered or set at large upon any *habeas corpus,* shall at any time hereafter be again imprisoned or committed for the same offense by any person or persons whatsoever, other than by the legal order and process of such court wherein he or they shall be bound by recognizance to appear, or other court having jurisdiction of the cause; and if any other person or persons shall knowingly contrary to this act recommit or imprison or knowingly procure or cause to be recommitted or imprisoned for the same offense or pretended offense any person or persons delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved the sum of five hundred pounds, any colourable pretense or variation in the warrant or warrants of commitment notwithstanding, to be recovered as aforesaid.

XII. And for preventing illegal imprisonments in prisons beyond the seas; be it further enacted by the authority aforesaid, that no subject of this realm that now is or hereafter shall be an inhabitant or resident of this kingdom of England, dominion of Wales or town of Berwick upon Tweed, shall or may be sent prisoner into Scotland, Ireland, Jersey, Guernsey, Tangier or into any parts, garrisons, islands or places beyond the seas, which are or at any time hereafter shall be within or without the dominions of his majesty, his heirs or successors; and that every such imprisonment is hereby enacted and adjudged to be illegal; and that if any of the said subjects now is or hereafter shall be so imprisoned every such person and persons so imprisoned shall and may for every such imprisonment maintain by virtue of this act an action or actions of false imprisonment in any of his majesty's courts of record against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner or transported, contrary to the true meaning of this act, and against all or any person or persons that shall frame, contrive, write, seal or countersign any warrant or writing for such commitment, detainer, imprisonment or transportation, or shall be advising, aiding or assisting in the same or any of them; and the plaintiff in every such action shall have judgment to recover his treble costs, besides damages, which damages so to be given shall not be less than five hundred pounds;

in which action no delay, stay or stop of proceeding by rule, order or command, nor no injunction, protection or privilege whatsoever, nor any more than one imparlance, shall be allowed, excepting such rule of the court wherein the action shall depend, made in open court, as shall be thought in justice necessary, for special cause to be expressed in the said rule; and the person or persons who shall knowingly frame, contrive, write, seal or countersign any warrant for such commitment, detainer or transportation, or shall so commit, detain, imprison or transport any person or persons, contrary to this act, or be any ways advising, aiding or assisting therein, being lawfully convicted thereof, shall be disabled from thenceforth to bear any office of trust or profit within the said realm of England, dominion of Wales or town of Berwick upon Tweed, or any of the islands, territories or dominions thereunto belonging; and shall incur and sustain the pains, penalties and forfeitures limited, ordained and provided in and by the statute of provision and *praemunire,* made in the sixteenth year of King Richard the Second; and be incapable of any pardon from the king, his heirs or successors, of the said forfeitures, losses or disabilities, or any of them.

XX. And be it also enacted by the authority aforesaid, that if any information, suit or action shall be brought or exhibited against any person or persons for any offense committed or to be committed against the form of this law, it shall be lawful for such defendants to plead the general issue that they are not guilty, or that they owe nothing, and to give such special matter in evidence to the jury that shall try the same, which matter being pleaded had been good and sufficient matter in law to have discharged the said defendant or defendants against the said information, suit or action, and the said matter shall then be as available to him or them to all intents and purposes, as if he or they had sufficiently pleaded, set forth or alleged the same matter in bar or discharge of such information, suit or action.

XXI. And because many times persons charged with petty treason or felony, or as accessories thereunto are committed upon suspicion only, whereupon they are bailable or not according as the circumstances making out that suspicion are more or less weighty, which are best known to the justices of peace that committed the persons, and have the examinations before them, or to other justices of the peace in the county; be it therefore enacted, that where any person shall appear to be committed by any judge or justice of the peace and charged as accessory before the fact to any petty treason or felony, or upon suspicion thereof, or with

suspicion of petty treason or felony, which petty treason or felony shall be plainly and specially expressed in the warrant of commitment, that such person shall not be removed or bailed by virtue of this act, or in any other manner than they might have been before the making of this act.

THE BILL OF RIGHTS

(1689, December 16. 1 William and Mary, sess. 2, c. 2 (or c. 36). 6 S. R. 142. Stubbs, Select Charters, 523-528. G. and H. 645-654.)

WHEREAS the lords spiritual and temporal and commons assembled at Westminster lawfully, fully and freely representing all the estates of the people of this realm, did upon the thirteenth day of February in the year of our Lord one thousand six hundred eighty-eight, present unto Their Majesties, then called and known by the names and style of William and Mary, prince and princess of Orange, being present in their proper persons, a certain declaration in writing made by the said lords and commons in the words following, viz.:

Whereas the late King James the Second, by the assistance of divers evil counsellors, judges and ministers employed by him, did endeavour to subvert and extirpate the Protestant religion and the laws and liberties of this kingdom.

By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of parliament.

By committing and prosecuting divers worthy prelates for humbly petitioning to be excused from concurring to the said assumed power.

By issuing and causing to be executed a commission under the great seal for erecting a court, called the court of commissioners for ecclesiastical causes.

By levying money for and to the use of the crown, by pretense of prerogative, for other time and in other manner than the same was granted by parliament.

By raising and keeping a standing army within this kingdom in time of peace, without consent of parliament, and quartering of soldiers contrary to law.

By causing several good subjects being Protestants to be disarmed, at the same time when papists were both armed and employed, contrary to law.

By violating the freedom of election of members to serve in parliament.

By prosecutions in the court of king's bench for matters and causes cognizable only in parliament, and by divers other arbitrary and illegal courses.

And whereas of late years partial, corrupt and unqualified persons have been returned and served on juries in trials, and particularly divers jurors in trials for high treason, which were not freeholders.

And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

And excessive fines have been imposed.

And illegal and cruel punishments have been inflicted.

And several grants and promises made of fines and forfeitures before any conviction or judgment against the persons upon whom the same were to be levied.

All of which are utterly and directly contrary to the known laws and statutes and freedom of this realm.

And whereas the said late King James the Second having abdicated the government and the throne being hereby vacant, His Highness the prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the lords spiritual and temporal and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being Protestants; and other letters to the several counties, cities, universities, boroughs and Cinque ports for the choosing of such persons to represent them, as were of right to be sent to parliament, to meet and sit at Westminster upon the two and twentieth day of January in this year one thousand six hundred eighty and eight, in order to such an establishment as that their religion, laws and liberties might not again be in danger of being subverted; upon which letters elections having been accordingly made.

And thereupon the said lords spiritual and temporal and commons pursuant to their respective letters and elections being now assembled in a full and free representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in

the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare:

That the pretended power of suspending of laws or the execution of laws by regal authority without consent of parliament is illegal.

That the pretended power of dispensing with laws or the execution of laws by regal authority as it hath been assumed and exercised of late is illegal.

That the commission for erecting the late court of commissioners for ecclesiastical causes and all other commissions and courts of like nature are illegal and pernicious.

That the levying money for or to the use of the crown by pretense of prerogative without grant of parliament for a longer time or in other manner than the same is or shall be granted, is illegal.

That it is the right of the subjects to petition the king and all commitments and prosecutions for such petitioning are illegal.

That the raising or keeping a standing army within the kingdom in time of peace unless it be with consent of parliament is against law.

That the subjects which are Protestants may have arms for their defense suitable to their conditions and as allowed by law.

That election of members of parliament ought to be free.

That the freedom of speech and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament.

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

That jurors ought to be duly impanelled and returned and jurors which pass upon men in trials for high treason ought to be freeholders.

That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.

And that for redress of all grievances and for the amending, strengthening and preserving of the laws parliaments ought to be held frequently.

And they do claim, demand and insist upon all and singular the premises as their undoubted rights and liberties and that no declarations, judgments, doings or proceedings to the prejudice of the people in any of the said premises ought in any wise to be drawn hereafter into consequence or example. To which demand of their rights they are particularly encouraged by the declarations of His Highness the prince of Orange, as being the only means for obtaining a full redress and remedy

therein. Having therefore an entire confidence that His said Highness the prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights and liberties, the said lords spiritual and temporal and commons assembled at Westminster, do resolve, that William and Mary, prince and princess of Orange, be and be declared king and queen of England, France and Ireland and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said prince and princess during their lives and the life of the survivor of them; and that the sole and full exercise of the regal power be only in and executed by the said prince of Orange in the names of the said prince and princess during their joint lives; and after their deceases the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said princess; and for default of such issue to the princess Anne of Denmark and the heirs of her body; and for default of such issue to the heirs of the body of the said prince of Orange. And the lords spiritual and temporal and commons do pray the said prince and princess to accept the same accordingly. And that the oaths hereafter mentioned to be taken by all persons of whom the oaths of allegiance and supremacy might be required by law instead of them; and that the said oaths of allegiance and supremacy be abrogated.

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Their Majesties King William and Queen Mary."

"I, A. B., do swear, that I do from my heart abhor, detest and abjure as impious and heretical this damnable doctrine and position, that princes excommunicated or deprived by the pope or any authority of the see of Rome may be deposed or murdered by their subjects or any other whatsoever. And I do declare that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, preeminence or authority, ecclesiastical or spiritual, within this realm. So help me God."

Upon which Their said Majesties did accept the crown and royal dignity of the kingdoms of England, France and Ireland and the dominions thereunto belonging, according to the resolution and desire of the said lords and commons, contained in the said declaration. And thereupon Their Majesties were pleased, that the said lords spiritual and temporal and commons, being the two houses of parliament, should continue to sit, and with Their Majesties' royal concurrence make effectual

provision for the settlement of the religion, laws and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted, to which the lords spiritual and temporal and commons did agree and proceed to act accordingly. Now in pursuance of the premises, the lords spiritual and temporal and commons in parliament assembled, for the ratifying, confirming and establishing the said declaration and the articles, clauses, matters and things therein contained, by the force of a law made in due form by authority of parliament, do pray that it may be declared and enacted, that all and singular the rights and liberties asserted and claimed in the said declaration are the true, ancient and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve Their Majesties and their successors according to the same in all times to come. And the said lords spiritual and temporal and commons, seriously considering how it hath pleased Almighty God in His marvelous providence and merciful goodness to this nation to provide and preserve Their said Majesties' royal persons most happily to reign over us upon the throne of their ancestors, for which they render unto Him from the bottom of their hearts their humblest thanks and praises, do truly, firmly, assuredly and in the sincerity of their hearts think, and do hereby humbly recognize, acknowledge and declare, that King James the Second, having abdicated the government and Their Majesties having accepted the crown and royal dignity [as] aforesaid, Their said Majesties did become, were, are and of right ought to be by the laws of this realm our sovereign liege lord and lady, king and queen of England, France and Ireland and the dominions thereunto belonging, in and to whose princely persons the royal state, crown and dignity of the said realms, with all honours, styles, titles, regalities, prerogatives, powers, jurisdictions and authorities to the same belonging and appertaining, are most fully, rightfully and entirely invested and incorporated, united and annexed; and for preventing all questions and divisions in this realm by reason of any pretended titles to the crown, and for preserving a certainty in the succession thereof, in and upon which the unity, peace, tranquility and safety of this nation doth under God wholly consist and depend, the said lords spiritual and temporal and commons do beseech Their Majesties, that it may be enacted, established and declared, that the crown and regal government

of the said kingdom and dominions, with all and singular the premises thereunto belonging and appertaining, shall be and continue to Their said Majesties and the survivor of them during their lives and the life of the survivor of them; and that the entire, perfect and full exercise of the regal power and government be only in and executed by His Majesty, in the names of both Their Majesties, during their joint lives; and after their deceases the said crown and premises shall be and remain to the heirs of the body of Her Majesty; and for default of such issue to Her Royal Highness the princess Anne of Denmark and the heirs of her body; and for default of such issue to the heirs of the body of His said Majesty; and thereunto the said lords spiritual and temporal and commons do in the name of all the people aforesaid most humbly and faithfully submit themselves, their heirs and posterities forever; and do faithfully promise that they will stand to, maintain and defend Their said Majesties, and also the limitation and succession of the crown herein specified and contained, to the utmost of their powers, with their lives and estates against all persons whatsoever that shall attempt anything to the contrary. And whereas it hath been found by experience, that it is inconsistent with the safety and welfare of this Protestant kingdom to be governed by a popish prince or by any king or queen marrying a papist, the said lords spiritual and temporal and commons do further pray, that it may be enacted, that all and every person and persons that is, are or shall be reconciled to or shall hold communion with the See or Church of Rome, or shall profess the popish religion, or shall marry a papist, shall be excluded and be forever incapable to inherit, possess or enjoy the crown and government of this realm and Ireland and the dominions thereunto belonging, or any part of the same, or to have, use or exercise any regal power, authority or jurisdiction within the same; and in all and every such case or cases the people of these realms shall be and are hereby absolved of their allegiance; and the said crown and government shall from time to time descend to and be enjoyed by such person or persons, being Protestants, as should have inherited and enjoyed the same in case the said person or persons so reconciled, holding communion, or professing, or marrying, as aforesaid, were naturally dead; and that every king and queen of this realm, who at any time hereafter shall come to and succeed in the imperial crown of this kingdom, shall on the first day of the meeting of the first parliament, next after his or her coming to the crown, sitting in his or her throne in the house of peers, in the presence of the lords and commons therein assembled, or at his or her

coronation, before such person or persons who shall administer the coronation oath to him or her at the time of his or her taking the said oath (which shall first happen), make, subscribe and audibly repeat the declaration mentioned in the statute made in the thirtieth year of the reign of King Charles the Second, entitled, An Act for the more effectual preserving the King's Person and Government by disabling Papists from sitting in either House of Parliament; but if it shall happen that such king or queen upon his or her succession to the crown of this realm shall be under the age of twelve years, then every such king or queen shall make, subscribe and audibly repeat the said declaration at his or her coronation, or the first day of the meeting of the first parliament as aforesaid, which shall first happen after such king or queen shall have attained the said age of twelve years. All which Their Majesties are contented and pleased shall be declared, enacted and established by authority of this present parliament, and shall stand, remain and be the law of this realm forever; and the same are by Their said Majesties, by and with the advice and consent of the lords spiritual and temporal and commons in parliament assembled, and by the authority of the same declared, enacted and established accordingly.

II. And be it further declared and enacted by the authority aforesaid, that, from and after this present session of parliament, no dispensation by *non obstante* of or to any statute or any part thereof shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such case as shall be specially provided for by one or more bill or bills to be passed during this present session of parliament.

III. Provided that no charter or grant or pardon, granted before the three and twentieth day of October in the year of our Lord one thousand six hundred eighty nine, shall be any ways impeached or invalidated by this act, but that the same shall be and remain of the same force and effect in law and no other than as if this act had never been made.

POLITICAL PHILOSOPHERS

As the Greek Philosophers, while searching for the true ground behind the changes of nature, came to ask "What is the true—the ideal—state?" so again modern thought, while searching for the basis of all knowledge, came to examine, also, the basis of all government.

It will be remembered that the Greek systems considered the individual entirely subordinate to the state. Plato's ideal state was to embody a thorough-going socialism, and with the exception of Plato's plan for the community of goods and wives, Aristotle's ideal government was to be almost as paternal. We have seen, also, that Polybius's and Cicero's model states did not differ far from the Roman republic. But when the Roman empire was established, the emperors came to be worshiped as gods, first after death, then even during life. Christianity could not admit the divinity of the emperor, but, after the empire became Christian, helped to spread the doctrine that the ruler reigns by divine right, appointed by God, as were the old Hebrew kings. From the early middle ages to the seventeenth century the theory of divine right was as commonly accepted as had been the supremacy of the pope.

Out of the loose feudalism of the middle ages there grew, in the thirteenth century and later, kingdoms governed by a king, subordinate to whom stood many more or less equal nobles. From this equality among the nobles and their equal right to a voice in the nation's affairs, came the council of the state, and because the king had to have money for war, and had to get it to some extent from the self-governing cities, the council came to include representatives of the people. This was in general the origin of representative government. The idea has been

one of the most important in history. It has made the existence of a large free government possible. Yet until the time of Charles I. of England, the representative idea did not necessarily imply the supremacy of the people, and it grew side by side with the doctrine of the divine right of kings.

In economics the Middle Ages acted upon what might be called the mercantile theory. This believed in the superiority of money to produce, and hence in keeping a balance of exports over imports by restrictions on trade, many of which were annoying and directly opposed to personal freedom.

But a new movement for individual liberty was arising that overthrew alike paternalism in government, the divinity of the king, and artificial restrictions on trade. As far back as 1577 Jean Bodin in his *De la Republic,* had maintained that all power came originally from the people, but he admitted that practically it had been perpetually alienated to the king. The English parliament beheaded Charles I., but a reaction set in that recalled his son. Hobbes took the side of the Stuarts, and argued that the people, to secure peace and protection, had irrevocably surrendered their right of governing to the king, under what he called a social contract.

Locke admitted that society is formed practically on such a contract, but made the great distinction that such rights as liberty, property, labor, are natural and can never be alienated. The king is only the representative of the people and can be overthrown. Property is property because earned by labor. Taxes must be voted by those that are taxed. This was the Whig justification for the election of William of Orange, the Bill of Rights, and the lasting supremacy of parliament.

Montesquieu, in his *Esprit des Lois,* added his authority to the principle of popular liberty. His idea of the preservation of a people's freedom by the separation of the legislative, executive, and judicial powers, as he saw them in the working of the English government, is one of the great principles of our constitution.

Jean Jacques Rousseau elaborated on the idea of the social contract, and the supremacy of the people. To him the king became merely an administrative head. All were to be equal.

Such principles, together with the English theory of taxation only with the consent of the taxed, brought on the American Revolution, and the same ideas, reinforced by the American example, overthrew the French king and the special privileges of the nobles and priests.

At the same time as the American Revolution, Adam Smith, in his *Wealth of Nations*, attacked the mediæval theory of the importance of the balance of trade and the consequent supposed necessity of trade restrictions. His arguments for free trade eventually brought about a revolution in the English economic policy and in the entire British colonial system. If he had written a few years earlier the American Revolution might well have been unnecessary.

The great watchwords at the close of the century were liberty, equality, fraternity, free thought, free speech, free trade.

HOBBES

OF THE FIRST AND SECOND NATURAL LAWS, AND OF CONTRACTS

THE RIGHT OF NATURE, which writers commonly call *jus naturale*, is the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything which, in his own judgment and reason, he shall conceive to be the aptest means thereunto.

By liberty, is understood, according to the proper signification of the word, the absence of external impediments: which impediments may often take away part of a man's power to do what he would; but cannot hinder him from using the power left him, according as his judgment and reason shall dictate to him.

A law of nature, *lex naturalis*, is a precept or general rule, found out by reason, by which a man is forbidden to do that which is destructive of his life, or taketh away the means of preserving the same; and to omit that by which he thinketh it may be best preserved. For though they who speak of this subject, use to confound *jus*, and *lex*, right and law; yet they ought to be distinguished; because right consisteth in liberty to do, or to forbear; whereas law determineth and bindeth to one of them: so that law and right differ as much as obligation and liberty; which in one and the same manner are inconsistent.

And because the condition of man, as hath been declared in the pre-

cedent chapter, is a condition of war of every one against every one; in which case every one is governed by his own reason; and there is nothing he can make use of that may not be a help unto him in preserving his life against his enemies; it followeth that in such a condition every man has a right to every thing; even to one another's body. And therefore, as long as this natural right of every man to every thing endureth, there can be no security to any man, how strong or wise soever he be, of living out the time which nature ordinarily alloweth men to live. And consequently it is a precept, or general rule of reason, that every man ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek and use all helps and advantages of war. The first branch of which rule containeth the first and fundamental law of nature; which is to seek peace and follow it. The second, the sum of the right of nature; which is, by all means we can, to defend ourselves.

From this fundamental law of nature, by which men are commanded to endeavour peace, is derived this second law; that a man be willing, when others are so, too, as far-forth as for peace and defense of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men as he would allow other men against himself. For as long as every man holdeth this right of doing any thing he liketh, so long are all men in the condition of war. But if other men will not lay down their right as well as he, then there is no reason for anyone to divest himself of his: for that were to expose himself to prey, which no man is bound to, rather than to dispose himself to peace. This is that law of the gospel: whatsoever you require that others should do to you, that do ye to them. And that law of all men *quod tibi fieri non vis alteri ne feceris.*

To lay down a man's right to anything is to divest himself of the liberty of hindering another of the benefit of his own right to the same. For he that renounceth or passeth away his right, giveth not to any other man a right which he had not before; because there is nothing to which every man had not right by nature: but only standeth out of his way, that he may enjoy his own original right, without hindrance from him; not without hindrance from another. So that the effect which redoundeth to one man, by another man's defect of right, is but so much diminution of impediments to the use of his own right original.

Right is laid aside, either by simply renouncing it or by transferring it to another. By simply renouncing, when he cares not to whom the ben-

efit thereof redoundeth. By transferring, when he intendeth the benefit thereof to some certain person or persons. And when a man hath in either manner abandoned or granted away his right, then he is said to be obliged, or bound, not to hinder those to whom such right is granted, or abandoned, from the benefit of it; and that he ought, and it is his duty, not to make void that voluntary act of his own; and that such hindrance is injustice and injury, as being *sine jure*; the right being before renounced or transferred. So that injury or injustice, in the controversies of the world, is somewhat like to that which in the disputations of scholars is called absurdity. For as it is there called an absurdity to contradict what one maintained in the beginning: so in the world it is called injustice and injury, voluntarily to undo that which, from the beginning, he had voluntarily done. The way by which a man either simply renounceth or transferreth his right is a declaration, or signification, by some voluntary and sufficient sign, or signs, that he doth so renounce or transfer; or hath so renounced or transferred the same to him that accepteth it. And these signs are either words only, or actions only, or, as it happeneth most often, both words and actions. And the same are the bonds by which men are bound and obliged: bonds that have their strength, not from their own nature, for nothing is more easily broken than a man's word, but from fear of some evil consequence upon the rupture.

OF THE CAUSES, GENERATION AND DEFINITION OF A COMMONWEALTH

The final cause, end, or design of men, who naturally love liberty and dominion over others, in the introduction of that restraint upon themselves, in which we see them live in commonwealths, is the foresight of their own preservation and of a more contented life thereby; that is to say, of getting themselves out from that miserable condition of war which is necessarily consequent, as hath been shown in chapter xiii, to the natural passions of men, when there is no visible power to keep them in awe, and tie them by fear of punishment to the performance of their covenants, and observation of those laws of nature set down in the fourteenth and fifteenth chapters.

For the laws of nature, as justice, equity, modesty, mercy and, in sum, doing to others, as we would be done to, of themselves, without

the terror of some power, to cause them to be observed, are contrary to our natural passions, that carry us to partiality, pride, revenge, and the like. And covenants, without the sword, are but words, and of no strength to secure a man at all. Therefore notwithstanding the laws of nature, which every one hath then kept, when he has the will to keep them, when he can do it safely, if there be no power erected, or not great enough for our security; every man will, and may lawfully rely on his own strength and art, for caution against all other men. And in all places, where men have lived by small families, to rob and spoil one another, has been a trade, and so far from being reputed against the law of nature, that the greater spoils they gained, the greater was their honour; and men observed no other laws therein, but the laws of honour; that is, to abstain from cruelty, leaving to men their lives, and instruments of husbandry. And as small families did then; so now do cities and kingdoms which are but greater families, for their own security, enlarge their dominions, upon all pretences of danger, and fear of invasion, or assistance that may be given to invaders, and endeavour as much as they can, to subdue, or weaken their neighbours, by open force, and secret arts, for want of other caution, justly; and are remembered for it in after ages with honour.

Nor is it the joining together of a small number of men, that gives them this security; because in small numbers, small additions on the one side or the other, make the advantage of strength so great, as is sufficient to carry the victory; and therefore gives encouragement to an invasion. The multitude sufficient to confide in for our security, is not determined by any certain number, but by comparison with the enemy we fear; and is then sufficient, when the odds of the enemy is not of so visible and conspicuous moment, to determine the event of war, as to move him to attempt.

And be there never so great a multitude; yet if their actions be directed according to their particular judgments, and particular appetites, they can expect thereby no defence, nor protection, neither against a common enemy, nor against the injuries of one another. For being distracted in opinions concerning the best use and application of their strength, they do not help but hinder one another; and reduce their strength by mutual opposition to nothing: whereby they are easily, not only subdued by a very few that agree together; but also when there is no common enemy, they make war upon each other, for their particular interests. For if we could suppose a great multitude of men to

consent in the observation of justice, and other laws of nature, without a common power to keep them all in awe; we might as well suppose all mankind to do the same; and then there neither would be, nor need to be any civil government, or commonwealth at all; because there would be peace without subjection.

Nor is it enough for the security, which men desire should last all the time of their life, that they be governed, and directed by one judgment, for a limited time; as in one battle, or one war. For though they obtain a victory by their unanimous endeavour against a foreign enemy; yet afterwards, when either they have no common enemy, or he that by one part is held for an enemy, is by another part held for a friend, they must needs by the difference of their interests dissolve, and fall again into a war amongst themselves.

It is true, that certain living creatures, as bees, and ants, live sociably one with another, which are therefore by Aristotle numbered amongst political creatures; and yet have no other direction, than their particular judgments and appetites; nor speech, whereby one of them can signify to another, what he thinks expedient for the common benefit: and therefore some man may perhaps desire to know, why mankind cannot do the same. To which I answer:

First, that men are continually in competition for honour and dignity, which these creatures are not; and consequently amongst men there ariseth on that ground, envy and hatred, and finally war; but amongst these not so.

Secondly, that amongst these creatures, the common good differeth not from the private; and being by nature inclined to their private, they procure thereby the common benefit. But man, whose joy consisteth in comparing himself with other men, can relish nothing but what is eminent.

Thirdly, that these creatures, having not, as man, the use of reason, do not see, nor think they see any fault, in the administration of their common business; whereas amongst men, there are very many, that think themselves wiser, and abler to govern the public, better than the rest; and these strive to reform and innovate, one this way, another that way; and thereby bring it into distraction and civil war.

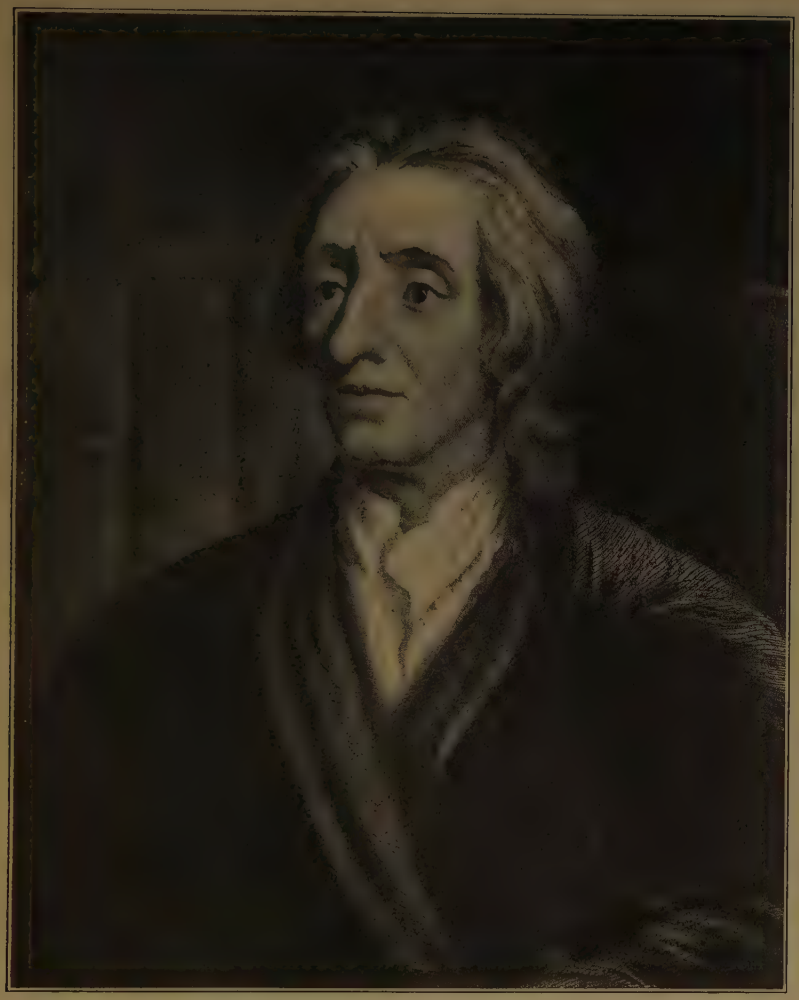
Fourthly, that these creatures, though they have some use of voice, in making known to one another their desires, and other affections; yet they want that art of words, by which some men can represent to others, that which is good, in the likeness of evil; and evil, in the likeness of

good; and augment, or diminish the apparent greatness of good and evil; discontenting men, and troubling their peace at their pleasure.

Fifthly, irrational creatures cannot distinguish between injury, and damage; and therefore as long as they be at ease, they are not offended with their fellows: whereas man is then most troublesome, when he is most at ease: for then it is that he loves to shew his wisdom, and controll the actions of them that govern the commonwealth.

Lastly, the agreement of these creatures is natural; that of men, is by covenant only, which is artificial: and therefore it is no wonder if there be somewhat else required, besides covenant, to make their agreement constant and lasting; which is a common power, to keep them in awe, and to direct their actions to the common benefit.

The only way to erect such a common power, as may be able to defend them from the invasion of foreigners, and the injuries of one another, and thereby to secure them in such sort, as that by their own industry, and by the fruits of the earth, they may nourish themselves and live contentedly; is, to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will: which is as much as to say, to appoint one man, or assembly of men, to bear their person; and every one to own, and acknowledge himself to be author of whatsoever he that so beareth their person, shall act, or cause to be acted, in those things which concern the common peace and safety; and therein to submit their wills, every one to his will, and their judgments, to his judgment. This is more than consent, or concord; it is a real unity of them all, in one and the same person, made by covenant of every man with every man, in such manner, as if every man should say to every man, I authorize and give up my right of governing myself, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner. This done, the multitude so united in one person, is called a commonwealth, in Latin *Civitas*. This is the generation of that great Leviathan, or rather, to speak more reverently, of that mortal god, to which we owe under the immortal God, our peace and defence. For by this authority, given him by every particular man in the commonwealth, he hath the use of so much power and strength conferred on him, that by terror thereof, he is enabled to perform the wills of them all, to peace at home, and mutual aid against their enemies abroad. And in him consisteth the essence of the commonwealth; which, to define it, is one person, of whose acts a great mul-



titude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all, as he shall think expedient, for their peace and common defence.

And he that carrieth this person, is called sovereign, and said to have sovereign power; and every one besides, his subject.

The attaining to this sovereign power, is by two ways. One, by natural force; as when a man maketh his children, to submit themselves, and their children to his government, as being able to destroy them if they refuse; or by war subdueth his enemies to his will, giving them their lives on that condition. The other, is when men agree amongst themselves, to submit to some man, or assembly of men, voluntarily, on confidence to be protected by him against all others. This latter, may be called a political commonwealth, or commonwealth by institution; and the former, a commonwealth by acquisition.

JOHN LOCKE

POLITICAL SOCIETIES

Of the Beginning of Political Societies

Men being, as has been said, by nature, all free, equal and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent. The only way, whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community, for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not of it. This any number of men may do, because it injures not the freedom of the rest; they are left as they were in the liberty of the state of nature. When any number have so consented to make one community or government, they are thereby presently incorporated, and make one body politic, wherein the majority have a right to act and conclude the rest.

For when any number have, by consent of every individual, made a

community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority: for that which actuates any community, being only the consent of the individuals of it, and it being necessary to that which is one body to move one way: it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority: or else it is impossible it should act or continue one body, one community, which is the consent of every individual that united into it, agreed that it should: and so every one is bound by that consent to be concluded by the majority. And therefore we see, that in assemblies, impowered to act by positive laws, where no number is set by that positive law, which impowers them, the act of the majority passes for the act of the whole, and of course determines: as having, by the law of nature and reason, the power of the whole.

And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation, to every one of that society, to submit to the determination of the majority, and to be concluded by it: or else this original compact, whereby he with others incorporate into one society, would signify nothing, and be no compact, if he be left free, and under no other ties than he was in before in the state of nature. For what appearance would there be of any compact? What new engagement if he were no farther tied by any decrees of the society, than he himself thought fit, and did actually consent to? This would still be as great a liberty, as he himself had before the compact, or any one else in the state of nature hath, who may submit himself, and consent to any parts of it if he thinks fit.

For if the consent of the majority shall not, in reason, be received as the act of the whole, and conclude every individual: nothing but the consent of every individual can make any thing to be the act of the whole: but such a consent is next to impossible ever to be had, if we consider the infirmities of health, and avocations of business, which in a number, though much less than that of a commonwealth, will necessarily keep many away from the public assembly. To which if we add the variety of opinions, and contrariety of interests, which unavoidably happen in all collections of men, the coming into society upon such terms would be only like Cato's coming into the theatre, only to go out again.

Such a constitution as this would make the mighty Leviathan of a shorter duration, than the feeblest creatures, and not let it outlast the

day it was born in: which cannot be supposed, till we can think, that rational creatures should desire and constitute societies only to be dissolved: for where the majority cannot conclude the rest, there they cannot act as one body, and consequently will be immediately dissolved again.

Whosoever, therefore, out of a state of nature unite into a community, must be understood to give all the power, necessary to the ends for which they unite into society, to the majority of the community, unless they expressly agreed in any number greater than the majority. And this is done by barely agreeing to unite into one political society, which is all the compact, that is, or needs be, between the individuals, that enter into, or make up a commonwealth. And thus that, which begins and actually constitutes any political society, is nothing but the consent of any number of freemen capable of a majority, to unite and incorporate into such a society. And that is that, and that only, which did, or could give beginning to any lawful government in the world.

Of the Ends of Political Society and Government

If man in the state of nature be so free, as has been said: if he be absolute lord of his own person and possessions, equal to the greatest, and subject to nobody, why will he part with his freedom? Why will he give up this empire, and subject himself to the dominion and control of any other power? To which it is obvious to answer, that though in the state of nature he has such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others: for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. This makes him willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in a society with others, who are already united, or have a mind to unite, for the mutual preservation of their lives, liberties and estates, which I call by the general name, property.

The great and chief end, therefore, of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property. To which in the state of nature there are many things wanting.

First, There wants an established, settled, known law, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies between them: for

though the law of nature be plain and intelligible to all rational creatures; yet men being biased by their interest, as well as ignorant for want of study of it, are not apt to allow of it as a law binding to them in the application of it to their particular cases.

Secondly, In the state of nature there wants a known and indifferent judge, with authority to determine all differences according to the established law: for everyone in that state being both judge and executioner of the law of nature, men being partial to themselves, passion and revenge is very apt to carry them too far, and with too much heat, in their own cases: as well as negligence, and unconcernedness, to make them too remiss in other men's.

Thirdly, In the state of nature there often wants power to back and support the sentence when right, and to give it due execution. They who by any injustice offended, will seldom fail, where they are able, by force to make good their injustice: such resistance many times makes the punishment dangerous, and frequently destructive, to those who attempt it.

Thus mankind, notwithstanding all the privileges of the state of nature, being but in an ill condition, while they remain in it, are quickly driven into society. Hence it comes to pass, that we seldom find any number of men live any time together in this state. The inconveniences that they are therein exposed to, by the irregular and uncertain exercise of the power every man has of punishing the transgressions of others, make them take sanctuary under the established laws of government, and therein seek the preservation of their property. It is this makes them so willingly give up every one his single power of punishing, to be exercised by such alone, as shall be appointed to it amongst them: and by such rules as the community, or those authorized by them to that purpose, shall agree on. And in this we have the original right and rise of both the legislative and executive power, as well as of the governments and societies themselves.

For in the state of nature, to omit the liberty he has of innocent delights, a man has two powers.

The first is to do whatsoever he thinks fit for the preservation of himself, and others within the permission of the law of nature: by which law, common to them all, he and all the rest of mankind are one community, make up one society, distinct from all other creatures. And were it not for the corruption and viciousness of degenerate men, there would be no need of any other; no necessity that men should separate

from this great and natural community, and by positive agreements combine into smaller and divided associations.

The other power a man has in the state of nature, is the power to punish the crimes committed against that law. Both these he gives up, when he joins in a private, if I may so call it, or particular politic society, and incorporates into any commonwealth, separate from the rest of mankind.

The first power, viz., "of doing whatsoever he thought for the preservation of himself," and the rest of mankind, he gives up to be regulated by laws made by the society, so far forth, as the preservation of himself, and the rest of that society shall require, which laws of the society in many things confine the liberty he had by the law of nature.

Secondly, The power of punishing he wholly gives up, and engages his natural force (which he might before employ in the execution of the law of nature, by his own single authority, as he thought fit) to assist the executive power of the society, as the law therefore shall require: for being now in a new state, wherein he is to enjoy many conveniences, from the labour, assistance, and society of others in the same community, as well as natural liberty, in providing for himself, as the good, prosperity, and safety of the society shall require: which is not only necessary, but just, since the other members of the society do the like.

But though men, when they enter into society, give up the equality, liberty, and executive power they had in the state of nature, into the hands of the society, to be so far disposed of by the legislative, as the good of the society shall require; yet it being only with an intention in every one the better to preserve himself, his liberty and property: (for no rational creature can be supposed to change his condition with an intention to be worse) the power of the society, or legislative constituted by them, can never be supposed to extend farther, than the common good: but is obliged to secure every one's property, by providing against those three defects above mentioned, that made the state of nature so unsafe and uneasy. And so whoever has the legislative or supreme power of any commonwealth, is bound to govern by established standing laws, promulgated and known to the people, and not by extemporary decrees, by indifferent and upright judges, who are to decide controversies by those laws: and to employ the force of community at home, only in the execution of such laws, or abroad to prevent or redress foreign injuries, and secure the community from inroads and invasion.

And all this to be directed to no other end, but the peace, safety, and public good of the people.

Of the Dissolution of Government

He that will with any clearness speak of the dissolution of government, ought in the first place to distinguish between the dissolution of the society and the dissolution of the government. That which makes the community, and brings men out of the loose state of nature, into one politic society, is the agreement which every one has with the rest to incorporate, and act as one body, and so be one distinct commonwealth. The usual, and almost only way whereby this union is dissolved, is the inroad of foreign force making a conquest upon them: for in that case, (not being able to maintain and support themselves, as one entire and independent body) the union belonging to that body which consisted therein, must necessarily cease, and so every one return to the state he was in before, with a liberty to shift for himself, and provide for his own safety, as he thinks fit, in some other society. Whenever the society is dissolved, it is certain that the government of the society cannot remain. Thus conquerors' swords often cut up governments by the roots, and mangle societies to pieces, separating the subdued or scattered multitude from the protection of, and dependence on, that society which ought to have preserved them from violence. The world is too well instructed in, and too forward to allow of, this way of dissolving of governments, to need any more to be said of it; and there wants not much argument to prove, that where the society is dissolved, the government cannot remain; that being as impossible, as for the frame of a house to subsist when the materials of it are scattered and dissipated by a whirlwind, or jumbled into a confused heap by an earthquake.

Besides this overturning from without, governments are dissolved from within:

When the legislative is altered. Civil society being a state of peace, amongst those who are of it, from whom the state of war is excluded by the umpirage, which they have provided in their legislative, for the ending all differences that may arise amongst any of them; it is in their legislative, that the members of a commonwealth are united, and combined together into one coherent living body. This is the soul that gives form, life and unity, to the commonwealth: from hence the several members have their mutual influence, sympathy, and connexion: and therefore, when the legislative is broken, or dissolved, dissolution

and death follows: for the essence and union of the society in having one will, the legislative, when once established by the majority, has the declaring, and as it were keeping of that will. The constitution of the legislative is the first and fundamental act of society, whereby provision is made for the continuation of their union, under the direction of persons, and bonds of law, made by persons authorized thereunto, by the consent and appointment by the people; without which no one man, or number of men, amongst them, can have the authority of making laws that shall be binding to the rest. When any one, or more, shall take upon them to make laws, whom the people have not appointed so to do, they make laws without authority, which the people are not therefore bound to obey, by which means they come again to be out of subjection, and may constitute to themselves a new legislative, as they think best, being in full liberty to resist those, who without authority would impose anything upon them. Every one is at the disposure of his own will, when those who had, by the delegation of the society, the declaring of the public will, are excluded from it, and others usurp the place, who have no such authority or delegation.

This being usually brought about by such in the commonwealth who misuse the power they have, it is hard to consider it aright, and know at whose door to lay it, without knowing the form of government in which it happens. Let us suppose then the legislative placed in the concurrence of three distinct persons.

A single hereditary person, having the constant, supreme, executive power, and with it the power of convoking and dissolving the other two, within certain periods of time.

An assembly of hereditary nobility.

An assembly of representatives chosen, *pro tempore,* by the people. Such a form of government, supposed, it is evident.

First, That when such a single person, or prince, sets up his own arbitrary will in place of the laws, which are the will of the society, declaring by the legislative, then the legislative is changed: for that being in effect the legislative, whose rules and laws are put in execution, and required to be obeyed; when other laws are set up, and other rules pretended, and inforced, than what the legislative, constituted by the society, have enacted, it is plain that the legislative is changed. Whoever introduces new laws, not being thereunto authorized by the fundamental appointment of the society, or subverts the old, disowns and

overturns the power by which they were made, and so sets up a new legislative.

Secondly, When the prince hinders the legislative from assembling in its due time, or from acting freely, pursuant to those ends for which it was constituted, the legislative is altered: for it is not a certain number of men, no, nor their meetings, unless they have also the freedom of debating, and leisure of perfecting, what is for the good of the society, wherein the legislative consists: when these are taken away or altered, so as to deprive the society of the due exercise of their power, the legislative is truly altered: for it is not names that constitute governments, but the use and exercise of those powers that were intended to accompany them: so that he, who takes away the freedom, or hinders the acting of the legislative in its due seasons, in effect takes away the legislative, and puts an end to the government.

Thirdly, When, by the arbitrary power of the prince, the electors, or ways of election, are altered, without the consent, and contrary to the common interest of the people, there also the legislative is altered: for, if others than those whom the society hath authorized thereunto, do choose, or in another way than what the society hath prescribed, those chosen are not the legislative appointed by the people.

Fourthly, The delivery also of the people into the subjection of a foreign power, either by the prince, or by the legislative, is certainly a change of the legislative, and so a dissolution of the government: for the end why people entered into society being to be preserved one entire, free, independent society, to be governed by its own laws: this is lost, whenever they are given up into the power of another.

Why, in such a constitution as this, the dissolution of the government in these cases is to be imputed to the prince, is evident, because he, having the force, treasure and offices of the state to employ, and often persuading himself, or being flattered by others, that as supreme magistrate he is incapable of control, he alone is in a condition to make great advances toward such changes, under pretence of lawful authority, and has it in his hands to terrify or suppress opposers, as factious, seditious, and enemies to the government: whereas no other part of the legislative, or people, is capable by themselves to attempt any alteration of the legislative, without open and visible rebellion, apt enough to be taken notice of: which, when it prevails, produces effects very little different from foreign conquest. Besides, the prince in such a form of government, having the power of dissolving the other parts of

the legislative, and thereby rendering them private persons, they can never in opposition to him, or without his concurrence, alter the legislative by a law, his consent being necessary to give any of their decrees that sanction. But yet, so far as the other parts of the legislative any way contribute to any attempt upon the government, and do either promote or not, what lies in them, hinder such designs: they are guilty, and partake in this, which is certainly the greatest crime men can be guilty of one toward another.

There is one way more whereby such a government may be dissolved, and that is, when he who has the supreme executive power, neglects and abandons that charge, so that the law already made can no longer be put in execution. This is demonstratively to reduce all to anarchy, and so effectually to dissolve the government: for laws not being made for themselves, but to be, by their execution, the bonds of the society, to keep every part of the body politic in its due place and function: when that totally ceases, the government visibly ceases, and the people become a confused multitude, without order or connexion. When there is no longer the administration of justice, for the securing of men's rights, nor any remaining power within the community to direct the force, or provide for the necessities of the public: there certainly is no government left. Where the laws cannot be executed, it is all one as if there were no laws, and a government without laws is, I suppose, a mystery in politics, unconceivable to human capacity, and inconsistent with human society.

In this and the like cases, when the government is dissolved, the people are at liberty to provide for themselves, by erecting a new legislative, differing from the other, by the change of persons, or form, or both, as they shall find it most for their safety and good: for the society can never, by the fault of another, lose the native and original right it has to preserve itself, which can only be done by a settled legislative, and a fair and impartial execution of the laws made by it. But the state of mankind is not so miserable that they are not capable of using this remedy, till it be too late to look for any. To tell people that they must provide for themselves, by erecting a new legislative, when by opposition, artifice, or being delivered over to a foreign power, their old one is gone, is only to tell them, they must expect relief when it is too late, and the evil is past cure. This is in effect no more than to bid them first be slaves, and then to take care of their liberty, and when their chains are on, tell them, they must act like freemen. This, if

barely so, is rather mockery than relief, and men can never be secure from tyranny, if there be no means to escape it till they are perfectly under it: and therefore it is, that they have not only a right to get out of it, but to prevent it.

There is, therefore, secondly, another way whereby governments are dissolved, and that is, when the legislative, or the prince, either of them, act contrary to their trust.

First, The legislative acts against the trust reposed in them, when they endeavour to invade the property of the subject, and to make themselves, or any part of the community, masters, or arbitrary disposers of the lives, liberties, or fortunes of the people.

The reason why men enter into society, is the preservation of their property: and the end why they choose and authorize a legislative, is, that there may be laws made, and rules set, as guards and fences to the properties of all the members of the society: to limit the power, and moderate the dominion, of every part and member of the society: for since it can never be supposed to be the will of the society, that the legislative should have a power to destroy that which every one designs to secure, by entering into society, and for which the people submitted themselves to legislators of their own making, whenever the legislators endeavour to take away, and destroy the property of the people, or to reduce them to slavery under arbitrary powers, they put themselves into a state of war with the people, who are thereupon absolved from any further obedience, and are left to the common refuge, which God hath provided for all men, against force and violence. Whensoever, therefore, the legislative shall transgress this fundamental rule of society: and either by ambition, fear, folly, or corruption, endeavour to grasp themselves, or put into the hands of any other, an absolute power over the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and, by the establishment of a new legislative (such as they shall think fit), provide for their own safety and security, which is the end for which they are in society. What I have said here, concerning the legislative in general, holds true also concerning the supreme executor, who having a double trust put in him, both to have a part in the legislative, and the supreme execution of the law, acts against both, when he goes about to set up his own arbitrary will as the law of the society. He acts also contrary to his trust, when he either employs the

force, treasure, and offices of the society to corrupt the representatives, and gain them to his purposes: or openly pre-engages the electors, and prescribes to their choice, such, whom he has, by solicitations, threats, promises, or otherwise, won to his designs: and employs them to bring in such, who have promised beforehand what to vote, and what to enact. Thus to regulate candidates and electors, and new model the ways of election, what is it but to cut up the government by the roots, and poison the very fountain of public security? for the people having reserved to themselves the choice of their representatives, as the fence to their properties, could do it for no other end, but that they might always be freely chosen, and so chosen, freely act, and advise, as the necessity of the commonwealth, and the public should, upon examination, and mature debate, be judged to require. This, those who give their votes before they hear the debate, and have weighed the reasons on all sides, are not capable of doing. To prepare such an assembly as this, and endeavour to set up the declared abettors of his own will, for the true representatives of the people, and the law-makers of the society, is certainly as great a breach of trust, and as perfect a declaration of a design to subvert the government, as is possible to be met with. To which, if one shall add rewards and punishments visibly employed to the same end, and all the arts of perverted law made use of, to take off and destroy all that stand in the way of such a design, and will not comply and consent to betray the liberties of their country, it will be past doubt what is doing. What power they ought to have in the society, who thus employ it contrary to the trust that went along with it in its first institution, is easy to determine; and one cannot but see, that he, who has once attempted any such thing as this, cannot any longer be trusted.

MONTESQUIEU

Charles Louis de Secondat, Baron de la Brede et de Montesquieu, was born near Bordeaux some time in January, 1689. He was educated at Juilly and Bordeaux. His father died in 1713. About a year later he married Jeanne Lartigue, a Protestant, half-English heir-

ess. In 1716 the death of his uncle left him the title by which he is known, and vastly increased his fortune.

He had early studied law and since 1714 been a member of the Bordeaux parliament. He was a close student of institutions, and in 1721 published his *Persian Letters,* mercilessly but good-naturedly satirizing the follies of his day.

In 1726 he began to live in Paris, and was elected to the Academy in 1728. For the next few years he traveled in Austria and Italy, then returned to his estate at La Brede and settled down to literary work. His *Considerations on the Causes of the Grandeur and Decadence of the Romans* was published in 1736, and his famous *Esprit des Lois* in 1748. The *Esprit des Lois* is the greatest effort on the philosophy of history published in the eighteenth century. It deals with general law and the forms of government, with military arrangements; with manners and customs and the influence on them of climate; with economics; with religion; and finally with Roman, French, and feudal law. It is characterized throughout by keen insight into causes and principles. The point of view is largely inductive and quite English, the whole trend of the work being in favor of freedom and a representative government. Montesquieu's doctrine of the separation of the legislative, executive and judicial powers is a cornerstone of the American constitution, and many of his other observations had great influence with the statesmen that founded our republic.

Montesquieu died in 1755. Whenever liberty has been the fashion in France he has been popular, and his fame in England and the United States bids fair to last as long as theirs.

THE SEPARATION OF THE LEGISLATIVE, EXECUTIVE AND JUDICIAL POWERS

In every government there are three sorts of powers: the legislative; the executive in respect to things dependent on the law of nations; and the executive, in regard to matters that depend on the civil law.

By virtue of the first, the prince, or magistrate, enacts temporary or perpetual laws, and amends or abrogates those that have been already enacted. By the second, he makes peace or war, sends or receives embassies, establishes the public security, and provides against invasions.

By the third, he punishes criminals, or determines the disputes that arise between individuals. The latter we shall call the judiciary power, and the other simply the executive power of the state.

The political liberty of the subject is a tranquility of mind arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression.

There would be an end of every thing, were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.

Most kingdoms in Europe enjoy a moderate government, because the prince who is invested with the two first powers, leaves the third to his subjects. In Turkey, where these three powers are united in the Sultan's person, the subjects groan under the most dreadful oppression.

In the republics of Italy where these three powers are united, there is less liberty than in our monarchies. Hence their government is obliged to have recourse to as violent methods for its support, as even that of the Turks; witness the state inquisitors, and the lion's mouth into which every informer may at all hours throw his written accusations.

In what a situation must the poor subject be, under those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions.

The whole power is here united in one body; and though there is no external pomp that indicates a despotic sway, yet the people feel the effects of it every moment.

Hence it is that many of the princes of Europe, whose aim has been levelled at arbitrary power, have constantly set out with uniting in their own persons all the branches of magistracy, and all the great offices of state.

I allow indeed that the mere hereditary aristocracy of the Italian republics does not exactly answer to the despotic power of the Eastern princes. The number of magistrates sometimes moderate the power of the magistracy; the whole body of the nobles do not always concur in the same design; and different tribunals are erected, that temper each other. Thus at Venice the legislative power is in the *council,* the executive in the *pregadi,* and the judiciary in the *quarantia.* But the mischief is that these different tribunals are composed of magistrates all belonging to the same body; which constitutes almost one and the same power.

The judiciary power ought not to be given to a standing senate, it should be exercised by persons taken from the body of the people, at certain times of the year, and consistently with a form and manner prescribed by law, in order to erect a tribunal that should last only so long as necessity requires.

By this method the judicial power so terrible to mankind, not being annexed to any particular state or professsion, becomes, as it were, invisible. People have not then the judges continually present to their view; they fear the office, but not the magistrate.

In accusations of a deep or criminal nature, it is proper the person accused should have the privilege of choosing in some measure his judges in concurrence with the law; or at least he should have a right to except against so great a number, that the remaining part may be deemed his own choice.

The other two powers may be given rather to magistrates or permanent bodies, because they are not exercised on any private subject; one being no more than the general will of the state, and the other the execution of that general will.

But though the tribunals ought not to be fixt, the judgments ought; and to such a degree as to be ever conformable to the letter of the law. Were they to be the private opinion of the judge, people would then live in society, without exactly knowing the nature of their obligations.

The judges ought likewise to be of the same rank as the accused, or in other words, his peers; to the end that he may not imagine he is fallen into the hands of persons inclined to treat him with rigour.

If the legislature leaves the executive power in possession of a right to imprison those subjects, who can give security for their good behaviour, there is an end of liberty; unless they are taken up, in order to answer without delay to a capital crime; in which case they are really free, being subject only to the power of the law.

But should the legislature think itself in danger by some secret conspiracy against the state, or by a correspondence with a foreign enemy, it might authorize the executive power, for a short and limited time, to imprison suspected persons, who in that case would lose their liberty only for a while, to preserve it for ever.

And this is the only reasonable method that can be substituted to the tyrannical magistracy of the *Ephori,* and to the *state inquisitors* of Venice, who are also despotical.

As in a country of liberty, every man who is supposed a free agent, ought to be his own governor; the legislative power should reside in the whole body of the people. But since this is impossible in large states, and in small ones is subject to many inconveniences; it is fit the people should transact by their representatives, what they cannot transact by themselves.

The inhabitants of a particular town are much better acquainted with its wants and interests, than with those of other places; and are better judges of the capacity of their neighbours, than of that of the rest of their countrymen. The members, therefore, of the legislature should not be chosen from the general body of the nation; but it is proper that in every considerable place, a representative should be elected by the inhabitants.

The great advantage of representatives is their capacity of discussing public affairs. For this the people collectively are extremely unfit, which is one of the chief inconveniences of a democracy.

It is not at all necessary that the representatives who have received a general instruction from their constituents, should wait to be directed on each particular affair, as is practiced in the diets of Germany. True it is, that by this way of proceeding, the speeches of the deputies might with greater propriety be called the voice of the nation; but, on the other hand, this would occasion infinite delays; would give each deputy a power of controlling the assembly; and, on the most urgent and pressing occasions, the wheels of government might be stopped by the caprice of a single person.

When the deputies, as Mr. Sidney well observes, represent a body

of people, as in Holland, they ought to be accountable to their constituents; but it is a different thing in England, where they are deputed by boroughs.

All the inhabitants of the several districts ought to have a right of voting at the election of a representative, except such as are in so mean a situation as to be deemed to have no will of their own.

One great fault there was in most of the ancient republics, that the people had a right to active resolutions, such as require some execution, a thing of which they are absolutely incapable. They ought to have no share in the government but for the choosing of representatives, which is within their reach. For though few can tell the exact degree of men's capacities, yet there are none but are capable of knowing in general, whether the person they choose is better qualified than most of his neighbours.

Neither ought the representative body to be chosen for the executive part of government, for which it is not so fit; but for the enacting of laws, or to see whether the laws in being are duly executed, a thing suited to their abilities, and which none indeed but themselves can properly perform.

In such a state there are always persons distinguished by their birth, riches, or honors: but were they to be confounded with the common people, and to have only the weight of a single vote like the rest, the common liberty would be their slavery, and they would have no interest in supporting it, as most of the popular resolutions would be against them. The share they have, therefore, in the legislature ought to be proportioned to their other advantages in the state; which happens only when they form a body that has a right to check the licentiousness of the people, as the people have a right to oppose any encroachment of theirs.

The legislative power is therefore committed to the body of the nobles, and to that which represents the people, each having their assemblies and deliberations apart, each their separate views and interests.

Of the three powers above-mentioned, the judiciary is in some measure next to nothing: there remain therefore only two; and as these have need of a regulating power to moderate them, the part of the legislative body composed of the nobility, is extremely proper for this purpose.

The body of the nobility ought to be hereditary. In the first place it is so in its own nature; and in the next there must be a considerable

interest to preserve its privileges; privileges that in themselves are obnoxious to popular envy, and of course in a free state are always in danger.

But as an hereditary power might be tempted to pursue its own particular interests, and forget those of the people; it is proper that where a singular advantage may be gained by corrupting the nobility, as in the laws relating to the supplies, they should have no other share in the legislation, than the power of rejecting, and not that of resolving.

By the *power of resolving,* I mean the right of ordaining by their own authority, or of amending what has been ordained by others. By the *power of rejecting,* I would be understood to mean the right of annulling a resolution taken by another; which was the power of the tribunes at Rome. And though the person possessed of the privilege of rejecting, may likewise have the right of approving; yet this approbation passes for no more than a declaration, that he intends to make no use of his privileges of rejecting, and is derived from that very privilege.

The executive power ought to be in the hands of a monarch, because this branch of government, having need of dispatch, is better administered by one than by many: on the other hand, whatever depends on the legislative power, is oftentimes better regulated by many than by a single person.

But if there were no monarch, and the executive power should be committed to a certain number of persons selected from the legislative body, there would be an end then of liberty; by reason the two powers would be united, as the same persons would sometimes possess, and would be always able to possess, a share in both.

Were the legislative body to be a considerable time without meeting, this would likewise put an end to liberty. For of two things one would naturally follow; either that there would be no longer any legislative resolutions, and then the state would fall into anarchy; or that these resolutions would be taken by the executive power, which would render it absolute.

It would be needless for the legislative body to continue always assembled. This would be troublesome to the representatives, and moreover would cut out too much work for the executive power, so as to take off its attention to its office, and oblige it to think only of defending its own prerogatives, and the right it has to execute.

Again, were the legislative body to be always assembled, it might happen to be kept up only by filling the places of the deceased mem-

bers with new representatives; and in that case if the legislative body were once corrupted, the evil would be past all remedy. When different legislative bodies succeed one another, the people who have a bad opinion of that which is actually fitting, may reasonably entertain some hopes of the next: but were it to be always the same body, the people upon seeing it once corrupted, would no longer expect any good from its laws; and of course they would either become desperate or fall into a state of indolence.

The legislative body should not meet of itself. For a body is supposed to have no will but when it is met; and besides, were it not to meet unanimously, it would be impossible to determine which was really the legislative body; the part assembled, or the other. And if it had a right to prorogue itself, it might happen never to be prorogued; which would be extremely dangerous, in case it should ever attempt to incroach on the executive power. Besides there are seasons, some more proper than others, for assembling the legislative body: it is fit, therefore, that the executive power should regulate the time of meeting, as well as the duration of those assemblies, according to the circumstances and exigencies of state known to itself.

Were the executive power not to have a right of restraining the incroachments of the legislative body, the latter would become despotic; for as it might arrogate to itself what authority it pleased, it would soon destroy all the other powers.

But it is not proper, on the other hand, that the legislative power should have a right to stay the executive. For as the execution has its natural limits, it is useless to confine it; besides, the executive power is generally employed in momentary operations. The power, therefore, of the Roman tribunes was faulty, as it put a stop not only to the legislation, but likewise to the executive part of government; which was attended with infinite mischiefs.

But if the legislative power in a free state, has no right to stay the executive, it has a right and ought to have the means of examining in what manner its laws have been executed; an advantage which this government has over that of Crete and Sparta, where the Cosmi and the Ephori gave no account of their administration.

But whatever may be the issue of that examination, the legislative body ought not to have a power of arraigning the person, nor of course the conduct of him who is intrusted with the executive power. His person should be sacred, because as it is necessary for the good of the

state to prevent the legislative body from rendering themselves arbitrary, the moment he is accused or tried, there is an end of liberty.

In this case, the state would be no longer a monarchy, but a kind of a republic, though not a free government. But as the person intrusted with the executive power cannot abuse it without bad counsellors, and such as hate the laws as ministers, though the laws protect them as subjects; these men may be examined and punished. An advantage which this government has over that of *Gnidus,* where the law allowed of no such thing as calling the *Amymones* to an account, even after their administration; and therefore the people could never obtain any satisfaction for the injuries done them.

Though in general the judiciary power ought not to be united with any part of the legislative, yet this is liable to three exceptions, founded on the particular interest of the party accused.

The great are always obnoxious to popular envy; and were they to be judged by the people, they might be in danger from their judges, and would moreover be deprived of the privilege which the meanest subjects is possessed of in a free state, of being tried by his peers. The nobility, for this reason, ought not to be cited before the ordinary courts of judicature, but before that part of the legislature which is composed of their own body.

It is possible that the law, which is clear-sighted in one sense, and blind in another, might, in some cases, be too severe. But as we have already observed, the national judges are no more than the mouth that pronounces the words of the law, mere passive beings, incapable of moderating either its force or rigor. That part, therefore, of the legislative body, which we have just now observed to be a necessary tribunal on another occasion, is also a necessary tribunal in this; it belongs to its supreme authority to moderate the law in favour of the law itself, by mitigating the sentence.

It might also happen that a subject intrusted with the administration of public affairs, may infringe the rights of the people, and be guilty of crimes which the ordinary magistrates either could not, or would not punish. But, in general, the legislative power cannot try causes; and much less can it try this particular case, where it represents the party aggrieved, which is the people. It can only, therefore, impeach. But before what court shall it bring its impeachment; must it go and demean itself before the ordinary tribunals which are its inferiors, and being composed moreover of men who are chosen from the

people as well as itself, will naturally be swayed by the authority of so powerful an accuser? No: in order to preserve the dignity of the people, and the security of the subject, the legislative part which represents the people, must bring in its charge before the legislative part which represents the nobility, who have neither the same interests, nor the same passions.

Here is an advantage which this government has over most of the ancient republics, where this abuse prevailed, that the people were at the same time both judge and accuser.

The executive power, pursuant to what has been already said, ought to have a share in the legislature by the power of rejecting, otherwise it would soon be stripped of its prerogative. But should the legislative power usurp a share of the executive, the latter would be equally undone.

If the prince were to have a part in the legislature by the power of resolving, liberty would be lost. But as it is necessary he should have a share in the legislature for the support of his own prerogative, this share must consist in the power of rejecting.

The change of government at Rome was owing to this, that neither the senate who had one part of the executive power, nor the magistrates who were entrusted with the other, had the right of rejecting, which was entirely lodged in the people.

Here then is the fundamental constitution of the government we are treating of. The legislative body being composed of two parts, they check one another by the mutual privilege of rejecting. They are both restrained by the executive power, as the executive is by the legislative.

These three powers should naturally form a state of repose or inaction. But as there is a necessity for movement in the course of human affairs, they are forced to move, but still in concert.

As the executive power has no other part in the legislative, than the privilege of rejecting, it can have no share in the public debates. It is not even necessary that it should propose, because as it may always disapprove of the resolutions that shall be taken, it may likewise reject the decisions on those proposals which were made against its will.

In some ancient commonwealths, where public debates were carried on by the people in a body, it was natural for the executive power to propose and debate in conjunction with the people, otherwise their resolutions must have been attended with a strange confusion.

Were the executive power to determine the raising of public money, otherwise than by giving its consent, liberty would be at an end; because

it would become legislative in the most important point of legislation.

If the legislative power was to settle the subsidies, not from year to year, but forever, it would run the risk of losing its liberty, because the executive power would be no longer dependent; and when once it was possessed of such a perpetual right, it would be a matter of indifference, whether it held it of itself, or of another. The same may be said, if it should come to a resolution of intrusting, not an annual, but a perpetual command, of the fleets and armies to the executive power.

To prevent the executive power from being able to oppress, it is requisite that the armies with which it is entrusted, should consist of the people, and have the same spirit as the people, as was the case at Rome till the time of Marius. To obtain this end, there are only two ways, either that the persons employed in the army should have sufficient property to answer for their conduct to their fellow subjects, and be enlisted only for a year, as was customary at Rome: or if there should be a standing army composed chiefly of the most despicable part of the nation, the legislative power should have a right to disband them as soon as it pleased; the soldiers should live in common with the rest of the people; and no separate camp, barracks, or fortress should be suffered.

When once an army is established, it ought not to depend immediately on the legislative, but on the executive power; and this from the very nature of the thing, its business consisting more in action than deliberation.

It is natural for mankind to set a higher value upon courage than timidity, on activity than prudence, on strength than counsel. Hence the army will ever despise a senate, and respect their own officers. They will naturally slight the orders sent them by a body of men whom they look upon as cowards, and therefore unworthy to command them. So that as soon as the troops depend entirely on the legislative body, it becomes a military government; and if the contrary has ever happened, it has been owing to some extraordinary circumstances. It is because the army was always kept divided; it is because it was composed of several bodies that depended each on a particular province; it is because the capital towns were strong places, defended by their natural situation, and not garrisoned with regular troops. Holland, for instance, is still safer than Venice; she might drown or starve the revolted troops; for as they are not quartered in towns capable of furnishing them with necessary subsistence; this subsistence is of course precarious.

In perusing the admirable treatise of Tacitus on the manners of the Germans, we find it is from that nation the English have borrowed the idea of their political government. This beautiful system was invented first in the woods.

As all human things have an end, the state we are speaking of will lose its liberty and perish. Have not Rome, Sparta, and Carthage perished? It will perish when the legislative power shall be more corrupt than the executive.

It is not my business to examine whether the English actually enjoy this liberty, or not. Sufficient it is for my purpose to observe, that it is established by their laws; and I inquire no farther.

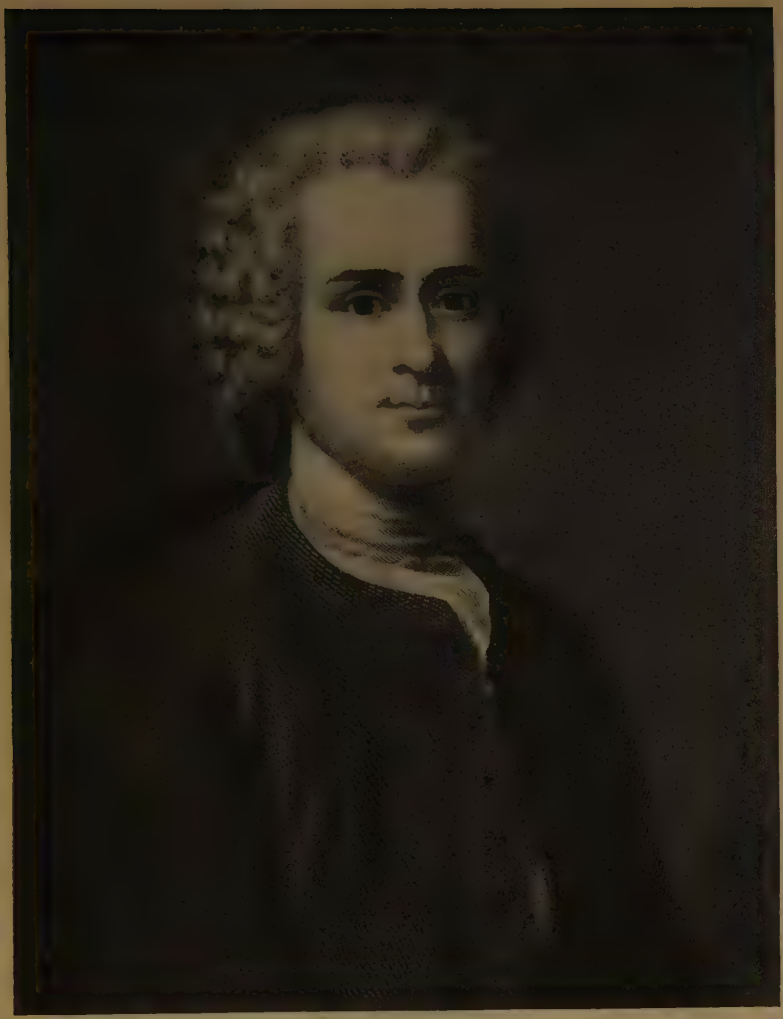
Neither do I pretend by this to undervalue other governments, nor to say that this extreme political liberty ought to give uneasiness to those who have only a moderate share of it. How should I have any such design, I who think that even the highest refinement of reason is not always desirable, and that mankind generally find their account better in mediums than in extremes?

Harrington, in his Oceana, has also inquired into the utmost degree of liberty to which the constitution of a state may be carried. But of him indeed it may be said, that, for want of knowing the nature of real liberty, he busied himself in pursuit of an imaginary one; and that he built a Chalcedon, though he had a Byzantium before his eyes.

ROUSSEAU

Jean Jacques Rousseau was born at Geneva, June 28, 1712. His mother died at his birth, and his father deserted him in 1722. He learned little at school and as little under either the notary or the engraver to whom he was successively apprenticed. In 1728 he ran away and led a roving life for many years. Early during this period he was sent by some Catholic priests to Madame de Warens to be converted to Catholicism, and for the next twelve years, whenever he tired or failed at something else he returned to her. Toward the end of this time she became his mistress.

In 1741 he went to Paris to try his musical theories on the Acad-



emy, but they were poorly received. In 1743 through de Mably (the brother of the writer) and Madame Dupin; he got the secretaryship to the Venetian Ambassador, but quarreled with him, as with everyone he dealt with, and had to return, to pick up a living copying music. In 1743 he found a new mistress, Theresa Levasseur, an ignorant kitchen girl, not even pretty, whom he lived with for the rest of his life, introducing her as his wife near the close of the period.

In 1749 he won a prize by an essay arguing that civilization had hurt morals. This predilection for a state of nature was his point of view throughout the rest of his life. He became very popular, and his ideas were at once applied to a criticism of existing institutions.

In 1762 he published the *Contrat Social,* maintaining the full sovereignty of the people, and in the same year *Emile,* an exposition of a system of education corresponding to his doctrine of the excellence of the state of nature. Both works brought him enemies and he fled to Geneva, and at last to England, where Hume tried to befriend him and got Rousseau enraged at him in doing so.

In 1770 he returned to Paris, and died in 1778. His character is that of a morbid, sensitive, suspicious, half-crazed genius, but his ideas have had tremendous influence. In politics, they expanded into the French Revolution, and in education they stand for the natural development of the child.

THE SOCIAL COMPACT

I suppose man arrived at a point where obstacles, which prejudice his preservation in the state of nature, outweigh, by their resistance, the force which each individual can employ to maintain himself in this condition. Then the primitive state can no longer exist; and mankind would perish did it not change its way of life.

Now, as men cannot engender new forces, but can only unite and direct those which exist, they have no other means of preservation than to form by aggregation a sum of forces which could prevail against resistance, and to put them in play by a single motive and make them act in concert.

This sum of forces can be established only by the concurrence of many; but the strength and liberty of each man being the primary instruments of his preservation, how can he pledge them without injury

to himself and without neglecting the care which he owes to himself? This difficulty as related to my subject may be stated as follows:

"To find a form of association which shall defend and protect with the public force the person and property of each associate, and by means of which each, uniting with all, shall obey however only himself, and remain as free as before." Such is the fundamental problem of which the *Social Contract* gives the solution.

The clauses of this contract are so determined by the nature of the act, that the least modification would render them vain and of no effect; so that, although they may, perhaps, never have been formally enunciated, they are everywhere the same, everywhere tacitly admitted and recognized until, the social compact being violated, each enters again into his first rights and resumes his natural liberty,—thereby losing the conventional liberty for which he renounced it.

These clauses, clearly understood, may be reduced to one: that is, the total alienation of each associate with all his rights to the entire community,—for, first, each giving himself entirely, the condition is the same for all; and the conditions being the same for all, no one has an interest in making it onerous for the others.

Further, the alienation being without reserve, the union is as complete as it can be, and no associate has anything to claim: for, if some rights remained to individuals, as there would be no common superior who could decide between them and the public, each, being in some points his own judge, would soon profess to be so in everything; the state of nature would subsist, and the association would necessarily become tyrannical and useless.

Finally, each giving himself to all, gives himself to none; and as there is not an associate over whom he does not acquire the same right as is ceded, an equivalent is gained for all that is lost, and more force to keep what he has.

If, then, we remove from the social contract all that is not of its essence, it will be reduced to the following terms: "Each of us gives in common his person and all his force under the supreme direction of the general will; and we receive each member as an indivisible part of the whole."

Immediately, instead of the individual person of each contracting party, this act of association produces a moral and collective body, composed of as many members as the assembly has votes, which receives from this same act its unity,—its common being, its life and its

will. This public personage, thus formed by the union of all the others, formerly took the name of city, and now takes that of republic or body politic. This is called the state by its members when it is passive; the sovereign when it is active; and a power when comparing it to its equals. With regard to the associates, they take collectively the name people, and call themselves individually citizens, as participating in the sovereign authority, and subjects, as submitted to the laws of the state. But these terms are often confounded and are taken one for the other. It is enough to know how to distinguish them when they are employed with all precision.

THE SOVEREIGN

We see by this formula that the act of association includes a reciprocal engagement between the public and individuals, and that each individual contracting, so to speak, with himself, finds himself engaged under a double relation; *i. e.,* as member of the sovereign to the individuals, and as member of the state to the sovereign. But the maxim of civil law, that no one is bound by engagements made with himself, cannot be applied here, for there is a great difference between an obligation to one's self and to a whole, of which the individual forms a part.

It should be observed, too, that public deliberation,—which may bind all subjects to the sovereign, on account of the two different relations under which each of them is considered,—cannot for the contrary reason bind the sovereign towards himself, and that consequently it is against the nature of the body politic that the sovereign impose upon himself a law which he cannot infringe. Being unable to consider himself except under the one relation, he is then in the position of an individual contracting with himself; whereby it is evident that there is not and cannot be any sort of obligatory fundamental law for the body of the people, not even the social contract. This does not mean that the body cannot engage itself perfectly towards others, in that which is not derogatory to this contract; for with regard to the foreigner, he becomes a simple being, an individual.

But the body politic or the sovereign, deriving its existence only from the sanctity of the contract, can never bind itself even towards others, to anything which is derogatory to this first act,—as to alienate some part of itself, or to submit to another sovereign. To violate the

act by which it exists would be self-annihilation; and that which is nothing produces nothing.

As soon as this multitude is thus united into a body, one of the members cannot be injured without attacking the body, and still less can the body be injured without the members feeling its effects. Thus duty and interest alike oblige the two contracting parties to mutually aid each other; and the same men should seek to unite under this double relation, all the advantages which may be derived from it.

Now the sovereign, being formed only of the individuals comprising it, neither has nor could have interests contrary to theirs; consequently the sovereign power has no need of guaranty towards the subjects, for it is impossible for the body to seek to injure all its members; and it will be seen hereafter that it can injure no one in particular.

The sovereign by the fact alone that it is, is always what it must be.

But this is not true of subjects towards a sovereign, to whom in spite of common interests, nothing binds them to their engagements unless means are taken to assure their fidelity. In fact each individual can, as man, have an individual will contrary to or different from the general will which he has as a citizen: his individual interest may speak quite differently from the common interest; his absolute and naturally independent existence may make him consider what he owes to the common cause as a gratuitous contribution, the loss of which would be less injurious to others than the payment of it would be onerous to him; and regarding the moral entity which constitutes the state as a legal fiction, because it is not a man, he would like to enjoy the rights of a citizen, without being willing to fulfill the duties of a subject; an injustice, the progress of which would cause the ruin of the body politic.

In order then that the social compact may not be an idle formula, it includes tacitly this engagement, which alone can give force to the others, that whoever shall refuse to obey the general will, shall be compelled to it by the whole body, which signifies nothing if not that he will be forced to be free; for it is this condition which, giving each citizen to the country, guarantees him from all personal dependence, a condition which forms the device and working of the political machine, and alone renders civil engagements legitimate, which without that would be absurd, tyrannical, and subject to great abuse.

THE CIVIL STATE

The passage from the state of nature to the civil state produces in man a very remarkable change, by substituting in his conduct justice for interest, and giving to his actions a moral force which they lacked before. Then only does the voice of duty succeed to physical impulse, and law to appetite, and man who until then had thought only of himself, sees himself forced to act upon other principles, and to consult his reason before listening to his desires. Although he deprives himself in this state of several advantages which he holds from nature, he gains other advantages so great—his faculties exercise and develop, his ideas expand, his sentiments become ennobled, his whole spirit is elevated to such a point that, if the abuse of this new condition did not often degrade him below that from which he came, he ought to bless without ceasing the happy moment which took him from it forever, and which has made of a dull, stupid animal, an intelligent being—a man.

Let us reduce all this account to terms which may be easily compared: What man loses by the social contract is his natural liberty and an unlimited right to anything that tempts him, which he can obtain; what he gains is civil liberty and the ownership of all that he possesses. Not to be deceived in these compensations, we must distinguish the natural liberty, which has no limits but the strength of the individual, from civil liberty, which is limited by the general will; and possession, which is only the effect of the force or right of the first occupant, from the ownership which is founded only upon a positive title.

After what precedes, there ought to be added to the credit side of the civil state, that of moral liberty, which alone renders man master of himself; for the impulse of one's appetite is slavery, and obedience to self-prescribed law is liberty. But I have already said too much about this. The philosophical meaning of the word liberty is not a part of my subject here.

SOVEREIGNTY IS INALIENABLE

The first and most important consequence of the principles just

established is, that only the general will can direct the forces of the state according to the object of its establishment, which is the common good; for if the opposition of individual interests has rendered the establishment of societies necessary, it is the accord of these same interests which has rendered it posssible. It is what is common in these different interests which forms the social tie; and if there were not some point, upon which all interests were in accord, no society could exist. Now it is solely through this common interest that society should be governed.

I say then that sovereignty, being only the exercise of the general will, can never alienate itself, and that the sovereign, who is not a collective being, can be represented only by himself; power can transmit itself, but not will.

In fact, if it is not impossible that an individual will should accord in some points with the general will, it is at least impossible that this accord be unchangeable and permanent; for the individual will tends by its nature to preferences, and the general will to equality. It is still more impossible to have a guaranty of this accord; even should it always exist, it would not be the result of art but of chance. The sovereign may say: "I desire now what such a man desires, or at least what he says he desires"; but he cannot say: "What this man will desire tomorrow I shall still desire," for it is absurd to bind the will for the future, and no will can consent to anything contrary to the good of the person who wills. If then the people promise simply to obey, it dissolves by that act, it loses its quality as a people; the moment there is a master, there is no longer a sovereign, and from that time the body politic is destroyed.

This is not saying that the orders of chiefs may not pass for the general will, as long as the sovereign, free to oppose them, does not do so. In such a case, from universal silence, the consent of the people is presumed. This will be explained more at length.

SOVEREIGNTY IS INDIVISIBLE

For the same reason that sovereignty is inalienable, it is indivisible; for the will is general or it is not; it is the will of the body of the people, or of only a part of it. In the first case this declared will is an

act of sovereignty and makes law; in the second it is only an individual will, or an act of magistracy; it is, at the most, a decree.

But our political writers, not being able to divide the sovereignty in its principle, divide it in its object; they divide it into force and will, into legislative power and executive power; into rights of impost, of justice and war; into interior administrations and into power to treat with foreign countries; sometimes they confound all these parts and sometimes they separate them. They make of the sovereign a fantastic creature, formed of separate parts; it is as if they should compose a man with different bodies of which one would have the eyes, another the arms, another the feet, and nothing more. It is said that charlatans in Japan dismember a living child before the eyes of the spectators; then throwing all its members into the air, one after another, they make the child come down alive and whole again. This is very like the juggling of our political writers; after having dismembered the social body by an illusion worthy of a juggler, the scattered pieces are collected, nobody knows how.

This error arises from not having precise conceptions of the sovereign authority, and from having taken for parts of this authority what is only an emanation from it. Thus, for example, the acts declaring war and concluding peace are regarded as acts of sovereignty. This is not true, because each of the acts is not a law, but the application of a law, an individual act which determines the matter of the law, as will be seen when the idea attached to the word law becomes fixed.

In following in the same way the other divisions, it will be found that whenever the sovereignty is supposed to be divided, it is a mistake; that the rights which are taken as parts of this sovereignty are all subordinated to it, and always suppose a supreme will of which these rights give only the execution.

No one can tell how much obscurity this fault of inaccuracy has thrown over the decisions of authors on questions of political rights, when they have tried to judge the respective rights of kings and people upon principles which they had established. Any one can see in the third and fourth chapters of Grotius' first book, how this learned man and his translator Barbeyrac entangled themselves and became embarrassed in their sophisms, for fear of saying too much or not enough according to their views, and of making clash the interests which they needed to conciliate. Grotius, having taken refuge in France, dissatisfied with his own country, wishing to pay court to Louis XIII., to

whom his book is dedicated, spares no pains to despoil the people of their rights, and to invest the king with them with all the art possible. This would have been also Barbeyrac's plan; he dedicated his translation to George I., King of England. But unfortunately the expulsion of James II., which he calls an abdication, forced him to be on his guard, to shift and tergiversate in order not to make out William a usurper.

Had these two writers adopted the true principle, all difficulties would have been removed; they would have been logical in their methods, but, having told the truth, would have paid court only to the people. Now truth does not lead to fortune, and the people give neither embassies, nor church preferments, nor pensions.

ENGLISH COLONIAL VIEWS

Of the new lands brought into communication with Europe in the sixteenth century, practically all of South and Central America fell into the control of the Spaniards and Portuguese. North America and India were the fields left to be striven for. The first efforts of the English to push trade were made by giving to chartered companies the right to trade and govern in some part of the new lands. Thus arose the Merchant Adventurers' Company in 1564, the Muscovy Company and the Turkey Company somewhat later, the East India Company in 1600, the Company of the Merchants of London for the Discovery of the Northwest Passage, the Virginia Company, the Bermuda Company, the Newfoundland Company, the first African Company, the New England Company, the Providence Company, the Massachusetts Bay Company, and many others, all formed in quick succession during the first part of the seventeenth century. Grants of land were also occasionally given to some lord, as Maryland in 1669 to Lord Baltimore, or the Carolinas in 1663 and 1665 to eight noblemen.

The original idea of most of these companies was to trade. Their attempts to govern territory were necessarily for the most part unsuccessful and the management of the colonies gradually devolved upon the home government, which deferred more or less to the colonists themselves.

The greatest exception to this incapacity to govern, the one company that, almost in spite of its own wishes, was forced to build up a mighty empire, was the East India Company.

By virtue of the voyages of Vasco da Gama and subsequent con-

quests, the trade of India had been exclusively in the hands of the Portuguese throughout the sixteenth century. The weakening of Spain and Portugal by the overthrow of the Armada in 1588 left the way to India open to Dutch and British enterprise. The Dutch seized the opportunity first and were already established in the East when the East India Company was formed in London in 1600, the immediate cause being the raising of the price of pepper by the Dutch from three to six shillings a pound. The English were at first opposed in the East by both the Dutch and the Portuguese, but even their first voyages were so profitable that other companies sprang up to divide the trade. The original company, however, held the advantage and successively absorbed its rivals. Several pitched battles were won against the Portuguese and a factory established at Surat (1614). The struggles with the Dutch still continued, and the Dutch succeeded in expelling the English from the Spice islands, Lantore, Bantam, and other districts. The Portuguese were again defeated, this time by Captain Shillinge, in 1620, and their power gradually declined. The Dutch successes continued and the British were driven from Lantore again and from the whole Indian archipelago (1623). The British trade and influence on the mainland was, nevertheless, constantly extended. Bombay was ceded to England in 1661 as part of the dower of Catharine of Braganza. The continued struggles against Dutch, Portuguese, and Mohammedans finally compelled the company in 1869 to establish itself as an independent sovereign in India. As its resolution runs, "The increase of our revenue is the subject of our care as much as our trade; 'tis that must maintain our force when twenty accidents may interrupt our trade; 'tis that must make us a nation in India; without that we are but a great number of interlopers united by His Majesty's royal charter, fit only to trade where nobody of power thinks it their interest to prevent us; and upon this account it is that the wise Dutch, in all their general advices that we have seen, write ten paragraphs concerning their government, their civil and military policy, warfare, and the increase of their revenue, for one paragraph they write concerning trade."

In the meantime the French began to take an interest in Indian trade. Their first company was formed in 1604, but their first important settlement, that at Pondicherri, was not made until 1672. For many years these two nations traded not far apart without serious difficulties, but the Franco-English war in 1745 brought a French fleet down upon

India the next year, and the English—among them young Robert Clive —were driven to take refuge in Fort St. David. A force of four hundred French under Dupleix defeated the nawàb with 10,000 men. In the war that followed Clive won fame by his heroic defense of Arcot (1751), but on the whole honors were about even in this district until the decisive victory of Wandewash, won by the English under Colonel Coote in 1761. But in the meantime the war had been shifted to Bengal. In 1756 Suràj-ud-Daulá, seeking one of his own subjects, marched upon Calcutta with a large army and seized the English that did not flee. One hundred and forty-six were thrown into the military jail, a room eighteen feet square with only two small windows—the famous "Black Hole of Calcutta." In the morning only twenty-three were left alive, the rest had been suffocated in the stifling heat. Clive and Admiral Watson promptly sailed upon Calcutta and retook the city. Clive attacked the French at Chandarnagar, and Suràj-ud-Daulá became the active ally of the French. With 1,000 Europeans and 2,100 Sepoys Clive defeated 68,000 Mohammedans under Suràj-ud-Daulá at Plassey, June 23, 1757. Clive placed Mìr Jafar on the throne—an indemnity of some $12,500,000 being the price of his elevation. The Company also received sovereign and landlord rights over large districts. In 1758 Clive was made the first governor-general of the English settlements in Bengal. He drove out both the remaining French and Dutch and left the English influence supreme. In his third visit to India he began the administrative organization of the country by placing the control of the revenues in the hands of the English and the administration of justice in the control of the nawáb. Clive returned to England in 1767. He had given his country a new empire.

Many so-called rebellions by native princes followed during the next hundred years, but we need not trace them here. During this period the Board of Control over the Company's affairs was established by Pitt in 1784, the Company's monopoly of the trade taken away in 1833, and the entire administration transferred from the Company to the Crown in 1858.

This brief sketch is enough to show that in the beginning the colonial policy of England was to give the exploiting and colonizing of the new countries over to trading companies. In the East these companies were intensely selfish. They made their monopolies pay by forcing out all others, selling their own manufactures at enormous profits, controlling as far as possible the production of the exportable

products, destroying native products in excess of what it would be profitable to export to Europe; demanding great indemnities for injuries; collecting huge and irregular taxes; and generally forcing as much out of the country as possible.

In America most of these companies were largely formed for the benefit of the colonists themselves, and the companies which did attempt to exercise undue control over the colonists soon found themselves in difficulties and lost their charters to the Crown. While in the East the East India Company had to deal with natives and foreign rivals, in America the colonists were Englishmen and used to English rights.

The whole theory of trade, however, national, as well as that held by companies and individuals, was wholly monopolistic and short-sightedly selfish. The colonies were considered properties; they were thought to be under the control of Parliament, subject to taxes by it; in accordance with the mercantile system of political economics then prevalent over Europe, manufactures in them were prohibited, they could trade only from England and, except where their goods might interfere with English products, only to England. The American colonists, on the other hand, considered themselves subject to the Crown, but not to Parliament—their own assemblies were their parliaments; they thought themselves as capable of acting for themselves as Parliament was; and denied the right of Parliament especially to internal taxation, though long admitting the right to restrictions on trade.

The gradual change in the British colonial policy toward absolute non-interference in colonial affairs, is marked by the American Revolution; by Smith's argument in the *Wealth of Nations,* that the colonies are not to be considered mere properties, but that the object is the greatest total production of wealth; the abolition of East Indian monopoly in 1794; the modification of the Navigation Act, which had so restricted trade, in 1823; the abolition of the Corn Laws in 1846; and the entire annulling of the Navigation Act in 1849.

In the meantime the two great empires of Canada and Australia had been developing and, as they grew, reaping the benefit of this change of policy. Upper and Lower Canada were both given a constitution and an elected parliament in 1791. The legislative union of the Dominion of Canada took place in 1867. Since then Canada has been practically independent.

Australia was first populated in New South Wales by convicts

exported from England in 1788. New South Wales continued to be a penal settlement up to 1839. Gradually Tasmania (1825), Western Australia (1829), South Australia (1834), New Zealand (1841), Victoria (1851), and Queensland (1859), assumed separate governments under governors appointed from England and elected parliaments. They were recently reunited in the great Commonwealth of Australia, even more independent of the mother country than Canada. These matters, however, belong to a later volume.

The English views at the time of the Revolution concerning the American colonies are touched upon more particularly under the head of the American Revolution, and are illustrated in the sentiments of Chatham, Grenville, Mansfield, Burke and Adam Smith, given below.

ROBERT CLIVE

Robert Clive was born in Shropshire, England, September 29, 1725. Clive was a dare-devil as a boy and paid little attention to his books, although he learnel Latin well enough to translate Horace at sight. At eighteen he was sent to Madras as a writer in the service of the East India Company. The ship was detained in Brazil for nine months and in that time he picked up a speaking knowledge of Portuguese. In India he was moody and reckless. In 1746 Madras capitulated, as mentioned in the introduction, to the French, and Clive, after taking refuge in Fort St. David, joined the army as an ensign.

At that time India was gradually slipping out of the grasp of the Great Mogul—the Mohammedan emperor—into the control of the nawábs of the Deccan, or South and Central India, of Bengal, and of Oudh. Dupleix, the French leader, was intriguing for the control in the Deccan by supporting Chunda Sahib for the position of nawáb of the Carnatic, the principal subdivision of the Deccan. Clive supported Mohammed Ali. In the absence of Chunda Sahib at the siege of Trichinopoly, Clive volunteered to attack the capital of the Carnatic, Arcot. The place was easily taken (1751) without a blow with Clive's 200 Europeans and 300 Sepoys, but with this force Clive had to stand a siege of fifty terrible days at the hands of Chunda Sahib and the French

until relieved by the Mahratta allies of Mohammed Ali. This defense gave Clive a reputation all over Europe, and turned the tide of the war in favor of the English.

Clive left for England in 1753, but was returned as governor at Fort St. David and lieutenant-colonel in 1756. He arrived just at the time of the suffocation of the English prisoners in the "Black Hole of Calcutta." Clive immediately marched against Surâj-ud-Daulá. The victory of Calcutta followed and the next year Clive with 3,200 troops won the great and decisive battle of Plassy over 68,000 Mohammedans. In 1760 he returned to England rich with the presents of the man he had set upon the throne.

His next visit to India, made in 1765, was to put on a firm foundation the territory won. The treaty he made left the East India Company sovereign over the 30,000,000 of people of Bengal, Behar, and Orissa. He tried to put the service on an honest basis, and reorganized the army.

He returned home in 1767. His enemies brought him to trial for his acceptance of presents, but Parliament refused to censure him. He sought to find relief from his troubles in opium and committed suicide November 22, 1774.

He was a great general, a greater diplomat, and an empire-building statesman. His colonial ideas were those of the Company he represented. India was their property to be governed wisely and moderately, but absolutely. Perhaps, however, this is because it was only with India and its peculiar conditions that he had to deal.

ON HIS CONDUCT IN INDIA

Sir, after rendering my country the services which I think I may, without any degree of vanity, claim the merit of, and after having nearly exhausted a life full of employment for the public welfare, and for the particular and advantageous emolument of the East India Company, I little thought transactions of this kind would have agitated the minds of my countrymen in such proceedings as these, tending to deprive me not only of my property and the fortune which I have fairly acquired, but of that which I hold more dear to me—my honour and my reputation. The House will not think me, I hope, fraught with any degree of vanity when I repeat again that I have done services to my country.

I must now beg leave to say a few words relative to the presents which I am charged with receiving unwarrantably. I must beg leave to observe to the House that presents were allowed and received from the earliest time of the Direction. They have continued to be received uninterruptedly for the space of 150 years; and men, Sir, who have sat in the Direction themselves have at several times received presents. This the Direction must know; but I am firmly of opinion that in honourable cases presents are not improper to be received; but when for dishonourable purposes, then, Sir, I hold them to be highly improper. In the early part of my life, my labours were without emolument or laurels, and I hope the House cannot think but that I ought to be rewarded for my services to my country in the latter part of it. When I was employed by the Company, their affairs abroad were in a condition much to be lamented. Misfortunes attended them in every part of their settlements, and the Nawábs looked with a jealous eye upon the small privileges and possessions they then enjoyed, and though small, in danger every day of being wrested from them. Fear and weakness of power sought for protection from the dangers that surrounded them. In this critical situation I was called forth, and it pleased God to make me the instrument of their delivery. In the various battles and attacks in which I was employed, I had the good fortune to succeed; nor were such schemes or undertakings entered upon without the previous provocation of the country powers. The treachery of Suráj ud Daulah was forever in our eye, and his perfidy was never at rest; nor did we attack Chandernagore till the treaty on his behalf was first violated.

After these conquests, Sir, and acquisitions gained for the Company, I returned home. They approved in the highest degree of what I had done; and as a token of their approbation, they presented me with a rich sword set with diamonds. This, certainly, Sir, was no mark of their opinion that I had either violated treaties or disobeyed their orders. Nor did their commendation and good opinion of my services terminate here. As soon as troubles broke out in that country, and when the news of the terrible disaster of the taking of Calcutta from us arrived to the ear of the Company, they immediately sent to me and requested that I would go once more to India, to protect and secure their possessions; that my presence alone would effect it; and they should rest secured, through the good opinion they had of me, that success would accompany me, and that I should be the means of putting their affairs again in a prosperous situation. I did not hesitate a moment to accept the

offer. I went abroad, resolving not to benefit myself one single shilling on my return, and I strictly and religiously adhered to it. When I arrived there, I subdued Angria, a very powerful prince. I re-took Calcutta with an inconsiderable army. Suráj ud Daulah had at all times betrayed a disposition to break the treaty; and when an army was sent under the command of M. Duprée, which might have proved fatal to us, I do not hesitate to say that we bribed the general of that army, who immediately wrote to the Nawáb to let him know the English were invincible; and, upon a second request from the Nawáb to M. Duprée, that he would march with his army and destroy the English, his answer was couched in the same terms. He said that he always found the English invincible, and that it would have been the height of imprudence to hazard an attack. By such means, and by this stratagem, we succeeded. We soon discovered that the Nawáb, Suráj ud Daulah, was so turbulent and restless that he only waited for the departure of the fleet to exterminate the English. But, as treacherous men are too apt to have men of the same cast and disposition about them, the Nawáb was not wanting of such companions. Omichand, his confidential servant, as he thought, told his master of an agreement made between the English and M. Duprée to attack him, and received for that advice a sum of not less than four lakhs of rupees. Finding this to be the man in whom the Nawáb entirely trusted, it soon became our object to consider him as a most material engine in the intended revolution. We therefore made such an agreement as was necessary for the purpose, and entered into a treaty with him to satisfy his demands. When all things were prepared, and the evening of the event was appointed, Omichand informed Mr. Watts, who was at the court of the Nawáb, that he insisted upon thirty lakhs of rupees, and five per cent upon all the treasure that should be found; that, unless that was immediately complied with, he would disclose the whole to the Nawáb; and that Mr. Watts, and the two other English gentlemen then at the court, should be cut off before the morning. Mr. Watts, immediately on this information, dispatched an express to me at the Council. I did not hesitate to find out a stratagem to save the lives of these people, and secure success to the intended event. For this purpose we signed another treaty. The one was called the red, the other the white treaty. This treaty was signed by everyone except Admiral Watson; and I should have considered myself sufficiently authorized to put his name to it by the conversation I had with him. As to the person who signed Admiral Watson's name to the treaty, whether

he did it in his presence or not I cannot say, but this I know, that he thought he had sufficient authority for so doing. This treaty was immediately sent to Omichand, who did not suspect the stratagem. The event took place, and success attended it; and the House, I am fully persuaded, will agree with me that, when the very existence of the Company was at stake, and the lives of these people so precariously situated, and so certain of being destroyed, it was a matter of a true policy and of justice to deceive so great a villain. I have in my hand, Sir, a letter signed by Admiral Watson, Messrs. Manningham, Watts, etc., which I apprehend will carry Admiral Watson's thorough approbation of the proceedings of the revolution, and the means by which it was obtained. (His lordship then read the letter, which conveyed Admiral Watson's full approbation.)

Nor, Sir, great as my fortune is (and which bears no proportion to what I might have made), yet, to show that I did not harass or lay under contribution those whom I have conquered for my own emolument, I can tell this House that neither I nor anyone in my army received a sixpence from the inhabitants of Muxadabad. My Jagír was not received till 1759, though it has been reported I received it at the revolution in 1757.

I must beg leave to mention another circumstance to this House; that, upon these troubles, the Dutch were encouraged by the Nawáb to enter the country with seven ships and a vast army. I did not hesitate a moment to give them battle; and in twenty-four hours I destroyed every ship they had, and their whole army was either killed, wounded or taken prisoners. At this time the Dutch had most of my money; and in this instance, I think, I showed a zeal for the honour and interest of the Company superior to every other object even of my own concerns. I must now beg leave to read in the House two letters from the Court of Directors to myself, containing their approbation of the revolution in Bengal. These letters, Sir, came not through the common channel of address to the Governor and Council, but were directed to myself. (His lordship then read the letters, which contained the most full and satisfactory approbation of what is termed in one of the letters the late glorious and profitable revolution.) These, Sir, are surely sufficient certificates of my behaviour and the proceedings of that revolution; and, whatever the House may think of them, will remain an everlasting approbation of my conduct from those persons who alone employed me, and whose servant I was. A late minister (Lord Chatham), whose abili-

ties have been an honour to his country, and whom this House will ever revere, will, I am sure, come to your bar, and not only tell you how highly he thought of my services at the time, but also what his opinion is now.

I am, however, sure that I shall have justice done me by the inquiry of those men who are likely to be appointed to go to India to regulate the affairs of that country. Then, Sir, may come from that part of the world a full justification of my conduct. Here I must beg leave to read a part of my late speech. (Here his lordship read a part of the letter and of his speech, made on the 30th of March, 1772, stating the acquisitions he had obtained for the Company and the public.) After these services, I thought at least I might have enjoyed my fortune uninterrupted, and unenvied by those not so rich as myself. (Here his lordship then read another letter from the Company, which contained in a stronger manner than any of the preceding ones a full and ample commendation and approbation of all his proceedings; this letter was directed to his lordship, and dated the 4th of March, 1767.)

Upon my arrival, Sir, in England a second time, a committee of the Directors waited upon me to desire to know when I would receive the congratulations of the Direction. I accordingly waited upon them at their court in Leadenhall street, and the chairman, at a very full court, addressed me in the words contained in this letter (which his lordship read). These, Sir, were circumstances, certainly, that gave me a full satisfaction, and a ground to think that my conduct, in every instance, was approved of. After such certificates as these, Sir, am I to be brought here like a criminal, and the very best parts of my conduct construed into crimes against the State? Is this the reward that is now held out to persons who have performed such important services to their country? If it is, Sir, the future consequences that will attend the execution of any important trust committed to the persons who have the care of it will be fatal indeed; and I am sure the noble lord upon the Treasury bench, whose great humanity and abilities I revere, would never have consented to the resolutions that passed the other night if he had thought on the dreadful consequences that would attend them.

Sir, I cannot say that I either sit or rest easy when I find by the extensive resolution proposed that all I have in the world is to be confiscated, and that no one will henceforward take my security for a shilling. These, Sir, are dreadful apprehensions to remain under, and I cannot look upon myself but as a bankrupt; nothing my own, and totally

unable to give any security while these resolutions are pending. Such, Sir, is the situation I am in. I have not anything left which I can call my own except my paternal fortune of £500 per annum, and which has been in the family for ages past. But upon this I am content to live, and perhaps I shall find more real content of mind and happiness therein than in the trembling affluence of an unsettled fortune.

But, Sir, I must make one more observation, that if the definition of the honourable gentleman (General Burgoyne) and of this House is that the State, as expressed in these resolutions, is *quoad hoc* the Company, then, Sir, every farthing that I enjoy is granted to me. But to be called, after sixteen years have elapsed, to account for my conduct in this manner, and after an uninterrupted enjoyment of my property, to have been questioned and considered as obtaining it unwarrantably, is hard indeed, and a treatment I should not think the British Senate capable of. But if it should be the case, I have a conscious innocence within me that tells me my conduct is irreproachable. *'Frangas non flectes.'* They may take from me what I have. They may, as they think, make me poor, but I will be happy. I mean not this as my defense, though I have done for the present. My defense will be made at that bar, and before I sit down I have one request to make to the House, that when they come to decide upon my honour, they will not forget their own.

CHATHAM AND GRENVILLE

William Pitt, Earl of Chatham, was born at Westminster, November 15, 1708. He was educated at Eton and Oxford, but attacks of hereditary gout prevented him from taking a degree. He traveled on the continent for a time, served as a cornet in the army, and in 1735 entered Parliament from Old Sarum—one of the typical "rotten boroughs." He at once attached himself to the opponents of Walpole. Walpole fell in 1742 and the king was at last forced to give Pitt a place as vice-treasurer of Ireland (1746), and then as paymaster-general, where the fact that he did not accept the commissions supposed to be a perquisite of his office, won him the confidence of the public. From

1746 to 1754 Pitt's chief effort seems to have been to drop the role of opposition and stand well with the king. In 1754, at the death of Henry Pelham, the Duke of Newcastle became the head of the "government." Pitt felt the fact that the change brought him no advance and boldly attacked the Duke in Parliament. This brought about his dismissal from office, but the opposition to which he now belonged won the leadership in 1756 and Pitt became Secretary of State, only to be dismissed the next year for opposing the king's continental policy. But the people rose up against his dismissal and the Duke of Newcastle was compelled to make a compromise with him by which Pitt became the virtual leader of the government. He supported Frederick the Great in his successful Seven Years' War, sent Wolfe against Quebec, and got the glory of Clive's victories in India.

George III. came to the throne October 25, 1760, and formed a Tory cabinet under Lord Bute. The king was determined to regain the power held by the Stuarts. In 1764 Pitt spoke for the people and liberty of the press in attacking the imprisonment of Wilkes. He seems to have been ill throughout all the next year.

In 1766, speaking for the repeal of the Stamp Tax, he made the great argument against the principle of taxing the colonies given below. In the autumn of this same year Pitt was called upon to form a compromise cabinet and as he wished to hold the place of Lord Privy Seal was made Earl of Chatham. His rise to the peerage cost him for a time a great deal of his popularity, and a nervous trouble that kept him shut up in his house for more than two years, let Townsend of his cabinet impose the tax on tea that eventually cost England her American colonies. As soon as he recovered he directed all his powers against the Tory policy toward America, but without avail. His fatal illness came upon him while speaking in the House of Lords, and he died a month later, May 11, 1778. He was ambitious, and for this reason often at first inconsistent, but he was honest amidst the almost universal dishonesty of Walpole's time, and a far-sighted statesman.

George Grenville was born October 14, 1712. He was educated at Eton and Oxford and entered the bar at twenty-five. From 1741 to his death in 1770 he was the member of Parliament from Buckingham. He was successively a lord of the admiralty (1744), of the treasury (1747), and in 1754 Treasurer of the Navy and privy councilor. Lord Temple was his brother and Pitt his brother-in-law, but Grenville was a Tory and remained in office under Lord Bute. In 1762 he became

Secretary of State, and later First Lord of the Admiralty. The next year he was placed over the treasury. He prosecuted Wilkes for printing the debates of Parliament, and passed the Stamp Act. He was dismissed on the accession of the Rockingham ministry in 1765. The speech given below was made in defending his Stamp Act in 1766 after he was out of office. He died November 13, 1770. He was intensely ambitious and had a ready grasp of details, but narrow in his views and much lacking in tact.

CHATHAM ON THE RIGHT TO TAX AMERICA

Mr. Speaker: I came to town but today. I was a stranger to the tenor of his Majesty's speech, and the proposed address, till I heard them read in this House. Unconnected and unconsulted, I have not the means of information. I am fearful of offending through mistake, and therefore beg to be indulged with a second reading of the proposed address. [The address being read, Mr. Pitt went on:] I commend the king's speech, and approve of the address in answer, as it decides nothing, every gentleman being left at perfect liberty to take such a part concerning America as he may afterward see fit. One word only I cannot approve of: an "early," is a word that does not belong to the notice the ministry have given to Parliament of the troubles in America. In a matter of such importance, the communication ought to have been immediate!

I speak not now with respect to parties. I stand up in this place single and independent. As to the late ministry [turning himself to Mr. Grenville, who sat within one of him], every capital measure they have taken has been entirely wrong! As to the present gentlemen, to those at least whom I have in my eye [looking at the bench where General Conway sat with the lords of the treasury], I have no objection. I have never been made a sacrifice by any of them. Their characters are fair; and I am always glad when men of fair character engage in his Majesty's service. Some of them did me the honor to ask my opinion before they would engage. These will now do me the justice to own, I advised them to do it—but, notwithstanding (for I love to be explicit), I cannot give them my confidence. Pardon me, gentlemen [bowing to the ministry], confidence is a plant of slow growth in an aged bosom. Youth is the season of credulity. By comparing events with each other,

reasoning from effects to causes, methinks I plainly discover the traces of an overruling influence.

There is a clause in the Act of Settlement obliging every minister to sign his name to the advice which he gives to his sovereign. Would it were observed! I have had the honor to serve the Crown, and if I could have submitted to influence, I might have still continued to serve: but I would not be responsible for others. I have no local attachments. It is indifferent to me whether a man was rocked in his cradle on this side or that side of the Tweed. I sought for merit wherever it was to be found. It is my boast, that I was the first minister who looked for it, and found it, in the mountains of the North. I called it forth, and drew into your service a hardy and intrepid race of men—men, who, when left by your jealousy, became a prey to the artifices of your enemies, and had gone nigh to have overturned the state in the war before the last. These men, in the last war, were brought to combat on your side. They served with fidelity, as they fought with valor, and conquered for you in every part of the world. Detested be the national reflections against them! They are unjust, groundless, illiberal, unmanly! When I ceased to serve his Majesty as a minister, it was not the country of the man by which I was moved—but the man of that country wanted wisdom, and held principles incompatible with freedom.

It is a long time, Mr. Speaker, since I have attended in Parliament. When the resolution was taken in this House to tax America, I was ill in bed. If I could have endured to be carried in my bed—so great was the agitation of my mind for the consequences—I would have solicited some kind hand to have laid me down on this floor, to have borne my testimony against it! It is now an act that has passed. I would speak with decency of every act of this House; but I must beg the indulgence of the House to speak of it with freedom.

I hope a day may soon be appointed to consider the state of the nation with respect to America. I hope gentlemen will come to this debate with all the temper and impartiality that his Majesty recommends, and the importance of the subject requires; a subject of greater importance than ever engaged the attention of this House, that subject only excepted, when, near a century ago, it was the question, whether you yourselves were to be bond or free. In the meantime, as I cannot depend upon my health for any future day (such is the nature of my

infirmities), I will beg to say a few words at present, leaving the justice, the equity, the policy, the expediency of the act to another time.

I will only speak to one point, a point which seems not to have been generally understood. I mean to the right. Some gentleman [alluding to Mr. Nugent] seem to have considered it as a point of honor. If gentlemen consider it in that light, they leave all measures of right and wrong, to follow a delusion that may lead to destruction. It is my opinion, that this kingdom has no right to lay a tax upon the colonies. At the same time, I assert the authority of this kingdom over the colonies to be sovereign and supreme in every circumstance of government and legislation whatsoever. They are the subjects of this kingdom; equally entitled with yourselves to all the natural rights of mankind and the peculiar privileges of Englishmen; equally bound by its laws, and equally participating in the constitution of this free country. The Americans are the sons, not the bastards of England! Taxation is no part of the governing or legislative power. The taxes are a voluntary gift and grant of the Commons alone. In legislation the three estates of the realm are alike concerned; but the concurrence of the peers and the Crown to a tax is only necessary to clothe it with the form of a law. The gift and grant is of the Commons alone. In ancient days, the Crown, the barons, and the clergy possessed the lands. In those days, the barons and the clergy gave and granted to the Crown. They gave and granted what was their own! At present, since the discovery of America, and other circumstances permitting, the Commons are become the proprietors of the land. The Church (God bless it!) has but a pittance. The property of the lords, compared with that of the commons, is as a drop of water in the ocean; and this House represents those commons, the proprietors of the lands; and those proprietors virtually represent the rest of the inhabitants. When, therefore, in this House, we give and grant, we give and grant what is our own. But in an American tax, what do we do? "We, your Majesty's Commons for Great Britain, give and grant to your Majesty"—what? Our own property? No! "We give and grant to your Majesty" the property of your Majesty's commons of America! It is an absurdity in terms.

The distinction between legislation and taxation is essentially necessary to liberty. The Crown and the peers are equally legislative powers with the Commons. If taxation be a part of simple legislation, the Crown and the peers have rights in taxation as well as yourselves; rights

which they will claim, which they will exercise, whenever the principle can be supported by power.

There is an idea in some that the colonies are virtually represented in the House. I would fain know by whom an American is represented here. Is he represented by any knight of the shire, in any county in this kingdom? Would to God that respectable representation was augmented to a greater number! Or will you tell him that he is represented by any representative of a borough? a borough which, perhaps, its own representatives never saw! This is what is called the rotten part of the Constitution. It can not continue a century. If it does not drop, it must be amputated. The idea of a virtual representation of America in this House is the most contemptible idea that ever entered into the head of a man. It does not deserve a serious refutation.

The Commons of America, represented in their several assemblies, have ever been in possession of the exercise of this, their constitutional right, of giving and granting their own money. They would have been slaves if they had not enjoyed it! At the same time, this kingdom, as the supreme governing and legislative power, has always bound the colonies by her laws, by her regulations, and restrictions in trade, in navigation, in manufactures, in every thing, except that of taking their money out of their pockets without their consent.

Here I would draw the line,

Quam ultra citraque neque consistere rectum.

MR. GRENVILLE SPEAKS

[As soon as Lord Chatham concluded, General Conway arose, and succinctly avowed his entire approbation of that part of his Lordship's speech which related to American affairs, but disclaimed altogether that "secret overruling influence which had been hinted at." Mr. George Grenville, who followed in the debate, expatiated at large on the tumults and riots which had taken place in the colonies, and declared that they bordered on rebellion. He condemned the language and sentiments which he had heard as encouraging a revolution. A portion of his speech is here inserted, as explanatory of the replication of Lord Chatham.]

I can not, said Mr. Grenville, understand the difference between external and internal taxes. They are the same in effect, and differ only

in name. That this kingdom has the sovereign, the supreme legislative power over America, is granted; it can not be denied; and taxation is a part of that sovereign power. It is one branch of the legislation. It is, it has been, exercised over those who are not, who were never represented. It is exercised over the India Company, the merchants of London, the proprietors of the stocks, and over many great manufacturing towns. It was exercised over the county palatine of Chester, and the bishopric of Durham, before they sent any representatives to Parliament. I appeal for proof to the preambles of the acts which gave them representatives; one in the reign of Henry VIII., the other in that of Charles II. [Mr. Grenville then quoted the acts, and desired that they might be read; which being done, he said:] When I proposed to tax America, I asked the House if any gentleman would object to the right; I repeatedly asked it, and no man would attempt to deny it. Protection and obedience are reciprocal. Great Britain protects America; America is bound to yield obedience. If not, tell me when the Americans were emancipated? When they want the protection of this kingdom, they are always very ready to ask it. That protection has always been afforded them in the most full and ample manner. The nation has run herself into an immense debt to give them their protection; and now, when they are called upon to contribute a small share toward the public expense—an expense arising from themselves—they renounce your authority, insult your officers, and break out, I might almost say, into open rebellion. The seditious spirit of the colonies owes its birth to the factions in this House. Gentlemen are careless of the consequences of what they say, provided it answers the purposes of opposition. We were told we trod on tender ground. We were bid to expect disobedience. What is this but telling the Americans to stand out against the law, to encourage their obstinacy with the expectation of support from hence? "Let us only hold out a little," they would say, "our friends will soon be in power." Ungrateful people of America! Bounties have been extended to them. When I had the honor of serving the Crown, while you yourselves were loaded with an enormous debt, you gave bounties on their lumber, on their iron, their hemp, and many other articles. You have relaxed in their favor the Act of Navigation, that palladium of the British commerce; and yet I have been abused in all the public papers as an enemy to the trade of America. I have been particularly charged with giving orders and instructions to prevent the Spanish trade, and thereby stopping the channel by which alone North

America used to be supplied with cash for remittances to this country. I defy any man to produce any such orders or instructions. I discouraged no trade but what was illicit, what was prohibited by an act of Parliament. I desire a West India merchant (Mr. Long), well known in the city, a gentleman of character, may be examined. He will tell you that I offered to do everything in my power to advance the trade of America. I was above giving an answer to anonymous calumnies; but in this place it becomes one to wipe off the aspersion.

[Here Mr. Grenville ceased. Several members got up to speak, but Mr. Pitt seeming to rise, the House was so clamorus for Mr. Pitt! Mr. Pitt! that the speaker was obliged to call to order.]

LORD CHATHAM CONTINUES

Mr. Pitt said, I do not apprehend I am speaking twice. I did expressly reserve a part of my subject, in order to save the time of this House; but I am compelled to proceed in it. I do not speak twice; I only finish what I designedly left imperfect. But if the House is of a different opinion, far be it from me to indulge a wish of transgression against order. I am content, if it be your pleasure, to be silent. [Here he paused. The House resounding with, Go on! go on! he proceeded:]

Gentlemen, sir, have been charged with giving birth to sedition in America. They have spoken their sentiments with freedom against this unhappy act, and that freedom has become their crime. Sorry I am to hear the liberty of speech in this House imputed as a crime. But the imputation shall not discourage me. It is a liberty I mean to exercise. No gentleman ought to be afraid to exercise it. It is a liberty by which the gentleman who calumniates it might have profited. He ought to have desisted from his project. The gentleman tells us, America is obstinate; America is almost in open rebellion. I rejoice that America has resisted. Three millions of people, so dead to all the feelings of liberty as voluntarily to submit to be slaves, would have been fit instruments to make slaves of the rest. I come not here armed at all points, with law cases and acts of Parliament, with the statute book doubled down in dog's ears, to defend the cause of liberty. If I had, I myself would have cited the two cases of Chester and Durham. I would have cited them to show that, even under former arbitrary reigns, Parliaments were ashamed of taxing a people without their con-

sent, and allowed them representatives. Why did the gentleman confine himself to Chester and Durham? He might have taken a higher example in Wales—Wales, that never was taxed by Parliament till it was incorporated. I would not debate a particular point of law with the gentleman. I know his abilities. I have been obliged to his diligent researches. But, for the defense of liberty, upon a general principle, upon a constitutional principle, it is a ground on which I stand firm—on which I dare meet any man. The gentleman tells us of many who are taxed, and are not represented—the India Company, merchants, stockholders, manufacturers. Surely many of these are represented in other capacities, as owners of land, or as freemen of boroughs. It is a misfortune that more are not equally represented. But they are all inhabitants, and, as such, are they not virtually represented? Many have it in their option to be actually represented. They have connections with those that elect, and they have influence over them. The gentleman mentioned the stockholders. I hope he does not reckon the debts of the nation as a part of the national estate.

Since the accession of King William, many ministers, some of great, others of more moderate abilities, have taken the lead of government. [Here Mr. Pitt went through the list of them, bringing it down till he came to himself, giving a short sketch of the characters of each, and then proceeded:] None of these thought, or even dreamed, of robbing the colonies of their constitutional rights. That was reserved to mark the era of the late administration. Not that there were wanting some, when I had the honor to serve his Majesty, to propose to me to burn my fingers with an American stamp act. With the enemy at their back, with our bayonets at their breasts, in the day of distress, perhaps the Americans would have submitted to the imposition; but it would have been taking an ungenerous, an unjust advantage. The gentleman boasts of his bounties to America! Are not these bounties intended finally for the benefit of this kingdom? If they are not, he has misapplied the national treasures!

I am no courtier of America. I stand up for this kingdom. I maintain that the Parliament has a right to bind, to restrain America. Our legislative power over the colonies is sovereign and supreme. When it ceases to be sovereign and supreme, I would advise every gentleman to sell his lands, if he can, and embark for that country. When two countries are connected together like England and her colonies, without being incorporated, the one must necessarily gov-

ern. The greater must rule the less. But she must so rule it as not to contradict the fundamental principles that are common to both.

If the gentleman does not understand the difference between external and internal taxes, I can not help it. There is a plain distinction between taxes levied for the purposes of raising a revenue, and duties imposed for the regulation of trade, for the accommodation of the subject; although, in the consequences, some revenue may incidentally arise from the latter.

The gentleman asks, When were the colonies emancipated? I desire to know, when were they made slaves? But I dwell not upon words. When I had the honor of serving his Majesty, I availed myself of the means of information which I derived from my office. I speak, therefore, from knowledge. My materials were good. I was at pains to collect, to digest, to consider them; and I will be bold to affirm, that the profits to Great Britain from the trade of the colonies, through all its branches, is two millions a year. This is the fund that carried you triumphantly through the last war. The estates that were rented at two thousands pounds a year, threescore years ago, are at three thousand at present. Those estates sold then from fifteen to eighteen years purchase; the same may now be sold for thirty. You owe this to America. This is the price America pays you for her protection. And shall a miserable financier come out with a boast, that he can bring "a peppercorn" into the exchequer by the loss of millions to the nation? I dare not say how much higher these profits may be augmented. Omitting [*i. e.*, not taking into account] the immense increase of people, by natural population, in the northern colonies, and the emigration from every part of Europe, I am convinced [on other grounds] that the commercial system of America may be altered to advantage. You have prohibited where you ought to have encouraged. You have encouraged where you ought to have prohibited. Improper restraints have been laid on the continent in favor of the islands. You have but two nations to trade with in America. Would you had twenty! Let acts of Parliament in consequence of treaties remain; but let not an English minister become a custom-house officer for Spain, or for any foreign power. Much is wrong! Much may be amended for the general good of the whole!

Does the gentleman complain he has been misrepresented in the public prints? It is a common misfortune. In the Spanish affair of the last war, I was abused in all the newspapers for having advised his Majesty to violate the laws of nations with regard to Spain. The abuse

was industriously circulated even in handbills. If administration did not propagate the abuse, administration never contradicted it. I will not say what advice I did give the King. My advice is in writing, signed by myself, in the possession of the Crown. But I will say what advice I did not give the King. I did not advise him to violate any of the laws of nations.

As to the report of the gentleman's preventing in some way the trade for bullion with the Spaniards, it was spoken of so confidently that I own I am one of those who did believe it to be true.

The gentleman must not wonder he was not contradicted when, as minister, he asserted the right of Parliament to tax America. I know not how it is, but there is a modesty in this House which does not choose to contradict a minister. Even your chair, sir, looks too often toward St. James'. I wish gentlemen would get the better of this modesty. If they do not, perhaps the collective body may begin to abate of its respect for the representative. Lord Bacon has told me, that a great question would not fail of being agitated at one time or another. I was willing to agitate such a question at the proper season, viz., that of the German war—my German war, they called it! Every session I called out, Has any body any objection to the German war? Nobody would object to it, one gentleman only excepted, since removed to the Upper House by succession to an ancient barony [Lord Le Despencer, formerly Sir Francis Dashwood]. He told me he did not like a German war. I honored the man for it, and was sorry when he was turned out of his post.

A great deal has been said without doors of the power, of the strength of America. It is a topic that ought to be cautiously meddled with. In a good cause, on a sound bottom, the force of this country can crush America to atoms. I know the valor of your troops. I know the skill of your officers. There is not a company of foot that has served in America, out of which you may not pick a man of sufficient knowledge and experience to make a governor of a colony there. But on this ground, on the Stamp Act, which so many here will think a crying injustice, I am one who will lift up my hands against it.

In such a cause, your success would be hazardous. America, if she fell, would fall like the strong man; she would embrace the pillars of the state, and pull down the Constitution along with her. Is this your boasted peace—not to sheathe the sword in its scabbard, but to sheathe it in the bowels of your countrymen? Will you quarrel with yourselves,

now the whole house of Bourbon is united against you; while France disturbs your fisheries in Newfoundland, embarrasses your slave trade to Africa, and withholds from your subjects in Canada their property stipulated by treaty; while the ransom for the Manillas is denied by Spain, and its gallant conqueror basely traduced into a mean plunderer! a gentleman (Colonel Draper) whose noble and generous spirit would do honor to the proudest grandee of the country? The Americans have not acted in all things with prudence and temper: they have been wronged; they have been driven to madness by injustice. Will you punish them for the madness you have occasioned? Rather let prudence and temper come first from this side. I will undertake for America that she will follow the example. There are two lines in a ballad of Prior's, of a man's behavior to his wife, so applicable to you and your colonies, that I can not help repeating them:

"Be to her faults a little blind;
Be to her virtues very kind."

Upon the whole, I will beg leave to tell the House what is my opinion. It is, that the Stamp Act be repealed absolutely, totally, and immediately. That the reason for the repeal be assigned, viz., because it was founded on an erroneous principle. At the same time, let the sovereign authority of this country over the colonies be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever; that we may bind their trade, confine their manufactures, and exercise every power whatsoever, except that of taking their money out of their pockets without their consent.

The motion for the address received the approbation of all. About a month after, February 26th, 1766, a bill was introduced repealing the Stamp Act; but, instead of following Mr. Pitt's advice, and abandoning all claim to the right of taxing the colonies, a Declaratory Act was introduced, asserting the authority of the King and Parliament to make laws which should "bind the colonies and people of America in all cases whatsoever!" Lord Camden, when the Declaratory Act came into the House of Lords, took the same ground with Mr. Pitt in the House of Commons. "My position," said he, "is this—I repeat it—I will maintain it to the last hour: Taxation and representation are inseparable. This position is founded on the laws of nature. It is more; it is in itself an eternal law of nature. For whatever is a man's own is absolutely his own. No man has a right to take it from him without

his consent, either expressed by himself or his representative. Whoever attempts to do this, attempts an injury. Whoever does it, commits a robbery. He throws down and destroys the distinction between liberty and slavery." But the opposite stand was taken. Though the Stamp Act was repealed, the Declaratory Act was passed; its principles were carried out by Charles Townsend the very next year, by imposing new taxes, and the Revolution followed.

MANSFIELD

William Murray, Earl of Mansfield, was born in Perthshire, England, March 2, 1705. His father was Viscount Stormont. The family had had Jacobite tendencies, and an elder brother, exiled at the court of the Pretender, brought the father to send William to Westminster at the age of thirteen. The kindness of the father of one of his fellow students there enabled him to study for the bar. This he entered in 1730, but it was 1736 or 1737 before he found success. In 1738 he married the daughter of the Earl of Winchelsea.

His first entrance into politics was made with his appointment as solicitor-general in 1742 on the fall of Walpole. During his parliamentary career much of the duty of replying to Chatham and Burke fell upon him. In 1754 he became attorney-general and in 1756 was made Chief Justice. By an unusual arrangement, however, he was kept in the cabinet for nearly fifteen years. During that time he defended the Stamp Act against appeal, arguing for the right of Parliament to tax the colonies. His whole tendency, in fact, was in the direction of a modified Toryism, holding to its love for authority, but finding that authority in the House of Commons rather than in the king. He died in 1793.

IN FAVOR OF THE RIGHT TO TAX AMERICA

My Lords,—I shall speak to the question strictly as a matter of right; for it is a proposition in its nature so perfectly distinct from the

expediency of the tax, that it must necessarily be taken separate, if there is any true logic in the world; but of the expediency or inexpediency I will say nothing. It will be time enough to speak upon that subject when it comes to be a question.

I shall also speak to the distinctions which have been taken, without any real difference, as to the nature of the tax; and I shall point out, lastly, the necessity there will be of exerting the force of the superior authority of government, if opposed by the subordinate part of it.

I am extremely sorry that the question has ever become necessary to be agitated, and that there should be a decision upon it. No one in this House will live long enough to see an end put to the mischief which will be the result of the doctrine which has been inculcated; but the arrow is shot, and the wound already given. I shall certainly avoid personal reflections. No one has had more cast upon him than myself; but I never was biased by any consideration of applause from without, in the discharge of my public duty; and, in giving my sentiments according to what I thought law, I have relied upon my own consciousness. It is with great pleasure I have heard the noble Lord who moved the resolution express himself in so manly and sensible a way, when he recommended a dispassionate debate, while, at the same time, he urged the necessity of the House coming to such a resolution, with great dignity and propriety of argument.

I shall endeavour to clear away from the question, all that mass of dissertation and learning displayed in arguments which have been fetched from speculative men who have written upon the subject of government, or from ancient records, as being little to the purpose. I shall insist that these records are no proofs of our present Constitution. A noble Lord has taken up his argument from the settlement of the Constitution at the Revolution; I shall take up my argument from the Constitution as it now is. The Constitution of this country has been always in a moving state, either gaining or losing something, and with respect to the modes of taxation, when we get beyond the reign of Edward the First, or of King John, we are all in doubt and obscurity. The history of those times is full of uncertainties. In regard to the writs upon record, they were issued some of them according to law, and some not according to law; and such [*i. e.*, of the latter kind] were those concerning ship-money, to call assemblies to tax themselves, or to compel benevolences. Other taxes were raised from escuage, fees for knights' service, and by other means arising out of the feudal system. Benevo-

lences are contrary to law; and it is well known how people resisted the demands of the Crown in the case of ship-money, and were persecuted by the Court; and if any set of men were to meet now to lend the King money, it would be contrary to law, and a breach of the rights of Parliament.

I shall now answer the noble Lord particularly upon the cases he has quoted. With respect to the Marches of Wales, who were the borderers, privileged for assisting the King in his war against the Welsh in the mountains, their enjoying this privilege of taxing themselves was but of a short duration, and during the life of Edward the First, till the Prince of Wales came to be the King; and then they were annexed to the Crown, and became subject to taxes like the rest of the dominions of England; and from thence came the custom, though unnecessary, of naming Wales and the town of Monmouth in all proclamations and in acts of Parliament. Henry the Eighth was the first who issued writs for it to return two members to Parliament. The Crown exercised this right *ad libitum,* from whence arises the inequality of representation in our Constitution at this day. Henry VIII. issued a writ to Calais to send one burgess to Parliament. One of the counties palatine (I think he said Durham) was taxed fifty years to subsidies, before it sent members to Parliament. The clergy were at no time unrepresented in Parliament. When they taxed themselves, it was done with the concurrence and consent of Parliament, who permitted them to tax themselves upon their petition, the Convocation sitting at the same time with the Parliament. They had, too, their representatives always sitting in this House, bishops and abbots; and, in the other House, they were at no time without a right of voting singly for the election of members; so that the argument fetched from the case of the clergy is not an argument of any force, because they were at no time unrepresented here.

The reasoning about the colonies of Great Britain, drawn from the colonies of antiquity, is a mere useless display of learning; for the colonies of the Tyrians in Africa, and of the Greeks in Asia, were totally different from our system. No nation before ourselves formed any regular system of colonization, but the Romans; and their system was a military one, and of garrisons placed in the principal towns of the conquered provinces. The states of Holland were not colonies of Spain; they were states dependent upon the house of Austria in a feudal dependence. Nothing could be more different from our colonies than that flock

of men, as they have been called, who came from the North, and poured into Europe. Those emigrants renounced all laws, all protection, all connection with their mother countries. They chose their leaders, and marched under their banners to seek their fortunes and establish new kingdoms upon the ruins of the Roman empire.

But our colonies, on the contrary, emigrated under the sanction of the Crown and Parliament. They were modeled gradually into their present forms, respectively, by charters, grants, and statutes; but they were never separated from the mother country, or so emancipated as to become *sui juris*. There are several sorts of colonies in British America. The charter colonies, the proprietary governments, and the Kings' colonies. The first colonies were the charter colonies, such as the Virginia Company; and these companies had among their directors members of the privy council and of both houses of Parliament; they were under the authority of the privy council, and had agents resident here, responsible for their proceedings. So much were they considered as belonging to the Crown, and not to the King personally (for there is a great difference, though few people attend to it), that when the two Houses, in the time of Charles the First, were going to pass a bill concerning the colonies, a message was sent to them by the King that they were the King's colonies, and that the bill was unnecessary, for that the privy council would take order about them; and the bill never had the royal assent. The Commonwealth Parliament, as soon is it was settled, were very early jealous of the colonies separating themselves from them; and passed a resolution or act (and it is a question whether it is not in force now) to declare and establish the authority of England over its colonies.

But if there was no express law, or reason founded upon any necessary inference from an express law, yet the usage alone would be sufficient to support that authority; for, have not the colonies submitted ever since their first establishment to the jurisdiction of the mother country? In all questions of property, the appeals from the colonies have been to the privy council here; and such causes have been determined, not by the law of the colonies, but by the law of England. A very little while ago, there was an appeal on a question of limitation in a devise of land with remainders; and, notwithstanding the intention of the testator appeared very clear, yet the case was determined contrary to it, and that the land should pass according to the law of England. The colonies have been obliged to recur very frequently to the jurisdic-

tion here, to settle the disputes among their own governments. I well remember several references on this head, when the late Lord Hardwicke was attorney general, and Sir Clement Wearg solicitor general. New Hampshire and Connecticut were in blood about their differences; Virginia and Maryland were in arms against each other. This shows the necessity of one superior decisive jurisdiction, to which all subordinate jurisdictions may recur. Nothing, my Lords, could be more fatal to the peace of the colonies at any time, than the Parliament giving up its authority over them; for in such a case, there must be an entire dissolution of government. Considering how the colonies are composed, it is easy to foresee there would be no end of feuds and factions among the several separate governments, when once there shall be no one government here or there of sufficient force or authority to decide their mutual differences; and, government being dissolved, nothing remains but that the colonies must either change their Constitution, and take some new form of government, or fall under some foreign power. At present the several forms of their Constitution are very various, having been produced, as all governments have been originally, by accident and circumstances. The forms of government in every colony were adopted, from time to time, according to the size of the colony; and so have been extended again, from time to time, as the numbers of their inhabitants and their commercial connections outgrew the first model. In some colonies, at first there was only a governor assisted by two or three counsel; then more were added; afterward courts of justice were erected; then assemblies were created. Some things were done by instructions from the secretaries of state; other things were done by order of the King and council; and other things by commissions under the great seal. It is observable, that in consequence of these establishments from time to time, and of the dependency of these governments upon the supreme Legislature at home, the lenity of each government in the colonies has been extreme toward the subject; and a great inducement has been created for people to come and settle in them. But, if all those governments which are now independent of each other, should become independent of the mother country, I am afraid that the inhabitants of the colonies are very little aware of the consequences. They would feel in that case very soon the hand of power more heavy upon them in their own governments, than they have yet done, or have ever imagined.

The Constitutions of the different colonies are thus made up of

different principles. They must remain dependent, from the necessity of things, and their relations to the jurisdiction of the mother country; or they must be totally dismembered from it, and form a league of union among themselves against it, which could not be effected without great violences. No one ever thought the contrary till the trumpet of sedition was blown. Acts of Parliament have been made, not only without a doubt of their legality, but with universal applause, the great object of which has been ultimately to fix the trade of the colonies, so as to center in the bosom of that country from whence they took their original. The Navigation Act shut up their intercourse with foreign countries. Their ports have been made subject to customs and regulations which have cramped and diminished their trade. And duties have been laid, affecting the very inmost parts of their commerce, and, among others, that of the post; yet all these have been submitted to peaceably, and no one ever thought till now of this doctrine, that the colonies are not to be taxed, regulated, or bound by Parliament. A few particular merchants were then, as now, displeased at restrictions which did not permit them to make the greatest possible advantages of their commerce in their own private and peculiar branches. But, though these few merchants might think themselves losers in articles which they had no right to gain, as being prejudicial to the general and national system, yet I must observe, that the colonies, upon the whole, were benefited by these laws. For these restrictive laws, founded upon principles of the most solid policy, flung a great weight of naval force into the hands of the mother country, which was to protect its colonies. Without a union with her, the colonies must have been entirely weak and defenseless, but they thus became relatively great, subordinately, and in proportion as the mother country advanced in superiority over the rest of the maritime powers in Europe; to which both mutually contributed, and of which both have reaped a benefit, equal to the natural and just relation in which they both stand reciprocally, of dependency on one side, and protection on the other.

There can be no doubt, my Lords, but that the inhabitants of the colonies are as much represented in Parliament, as the greatest part of the people of England are represented; among nine millions of whom there are eight which have no votes in electing members of Parliament. Every objection, therefore, to the dependency of the colonies upon Parliament, which arises to it upon the ground of representation, goes to the whole present Constitution of Great Britain; and I suppose it is not

meant to new model that too. People may form speculative ideas of perfection, and indulge their own fancies or those of other men. Every man in this country has his particular notion of liberty; but perfection never did, and never can exist in any human institution. To what purpose, then, are arguments drawn from a distinction, in which there is no real difference—of a virtual and actual representation? A member of Parliament, chosen for any borough, represents not only the constituents and inhabitants of that particular place, but he represents the inhabitants of every other borough in Great Britain. He represents the city of London, and all other the commons of this land, and the inhabitants of all the colonies and dominions of Great Britain; and is, in duty and conscience, bound to take care of their interests.

I have mentioned the customs and the post tax. This leads me to answer another distinction, as false as the above; the distinction of internal and external taxes. The noble Lord who quoted so much law, and denied upon those grounds the right of the Parliament of Great Britain to lay internal taxes upon the colonies, allowed at the same time that restrictions upon trade, and duties upon the ports, were legal. But I can not see a real difference in this distinction; for I hold it to be true, that a tax laid in any place is like a pebble falling into and making a circle in a lake, till one circle produces and gives motion to another, and the whole circumference is agitated from the center. For nothing can be more clear than that a tax of ten or twenty per cent. laid upon tobacco, either in the ports of Virginia or London, is a duty laid upon the inland plantations of Virginia, a hundred miles from the sea, wheresoever the tobacco grows.

I do not deny but that a tax may be laid injudiciously and injuriously, and that people in such a case may have a right to complain. But the nature of the tax is not now the question; whenever it comes to be one, I am for lenity. I would have no blood drawn. There is, I am satisfied, no occasion for any to be drawn. A little time and experience of the inconveniences and miseries of anarchy, may bring people to their senses.

With respect to what has been said or written upon this subject, I differ from the noble Lord, who spoke of Mr. Otis and his book with contempt, though he maintained the same doctrine in some points, while in others he carried it farther than Otis himself, who allows every where the supremacy of the Crown over the colonies. No man, on such a subject, is contemptible. Otis is a man of consequence among the

people there. They have chosen him for one of their deputies at the Congress and general meeting from the respective governments. It was said, the man is mad. What then? One madman often makes many. Masaniello was mad. Nobody doubts it; yet, for all that, he overturned the government of Naples. Madness is catching in all popular assemblies and upon all popular matters. The book is full of wildness. I never read it till a few days ago, for I seldom look into such things. I never was actually acquainted with the contents of the Stamp Act, till I sent for it on purpose to read it before the debate was expected. With respect to authorities in another House, I know nothing of them. I believe that I have not been in that House more than once since I had the honor to be called up to this; and, if I did know any thing that passed in the other House, I could not, and would not, mention it as an authority here. I ought not to mention any such authority. I should think it beneath my own and your Lordships' dignity to speak of it.

I am far from bearing any ill will to the Americans; they are a very good people, and I have long known them. I began life with them, and owe much to them, having been much concerned in the plantation causes before the privy council; and so I became a good deal acquainted with American affairs and people. I dare say, their heat will soon be over, when they come to feel a little the consequences of their opposition to the Legislature. Anarchy always cures itself; but the ferment will continue so much the longer, while hot-headed men there find that there are persons of weight and character to support and justify them here.

Indeed, if the disturbances should continue for a great length of time, force must be the consequence, an application adequate to the mischief, and arising out of the necessity of the case; for force is only the difference between a superior and subordinate jurisdiction. In the former, the whole force of the Legislature resides collectively, and when it ceases to reside, the whole connection is dissolved. It will, indeed, be to very little purpose that we sit here enacting laws, and making resolutions, if the inferior will not obey them, or if we neither can nor dare enforce them; for then, and then, I say, of necessity, the matter comes to the sword. If the offspring are grown too big and too resolute to obey the parent, you must try which is the strongest, and exert all the powers of the mother country to decide the contest.

I am satisfied, notwithstanding, that time and a wise and steady conduct may prevent those extremities which would be fatal to both.

I remember well when it was the violent humor of the times to decry standing armies and garrisons as dangerous, and incompatible with the liberty of the subject. Nothing would do but a regular militia. The militia are embodied; they march; and no sooner was the militia law thus put into execution, but it was then said to be an intolerable burden upon the subject, and that it would fall, sooner or later, into the hands of the Crown. That was the language, and many counties petitioned against it. This may be the case with the colonies. In many places they begin already to feel the effects of their resistance to government. Interest very soon divides mercantile people; and, although there may be some mad, enthusiastic, or ill-designing people in the colonies, yet I am convinced that the greatest bulk, who have understanding and property, are still well affected to the mother country. You have, my Lords, many friends still in the colonies; and take care that you do not, by abdicating your own authority, desert them and yourselves, and lose them forever.

In all popular tumults, the worst men bear the sway at first. Moderate and good men are often silent for fear or modesty, who, in good time, may declare themselves. Those who have any property to lose are sufficiently alarmed already at the progress of these public violences and violations, to which every man's dwelling, person and property are hourly exposed. Numbers of such valuable men and good subjects are ready and willing to declare themselves for the support of government in due time, if government does not fling away its own authority.

My Lords, the Parliament of Great Britain has its rights over the colonies; but it may abdicate its rights.

There was a thing which I forgot to mention. I mean, the manuscript quoted by the noble Lord. He tells you that it is there said, that, if the act concerning Ireland had passed, the Parliament might have abdicated its rights as to Ireland. In the first place, I heartily wish, my Lords, that Ireland had not been named, at a time when that country is of a temper and in a situation so difficult to be governed; and when we have already here so much weight upon our hands, encumbered with the extensiveness, variety and importance of so many objects in a vast and too busy empire, and the national system shattered and exhausted by a long, bloody, and expensive war, but more so by our divisions at home, and a fluctuation of counsels. I wish Ireland, therefore, had never been named.

I pay as much respect as any man to the memory of Lord Chief Jus-

tice Hale; but I did not know that he had ever written upon the subject; and I differ very much from thinking with the noble Lord, that this manuscript ought to be published. So far am I from it, that I wish the manuscript had never been named; for Ireland is too tender a subject to be touched. The case of Ireland is as different as possible from that of our colonies. Ireland was a conquered country; it had its *pacta conventa* and its regalia. But to what purpose is it to mention the manuscript? It is but the opinion of one man. When it was written, or for what particular object it was written, does not appear. It might possibly be only a work of youth, or an exercise of the understanding, in sounding and trying a question problematically. All people, when they first enter professions, make their collections pretty early in life; and the manuscript may be of that sort. However, be it what it may, the opinion is but problematical; for the act to which the writer refers never passed, and Lord Hale only said that, if it had passed, the Parliament might have abdicated their right.

But, my Lords, I shall make this application of it. You may abdicate your right over the colonies. Take care, my Lords, how you do so; for such an act will be irrevocable. Proceed, then, my Lords, with spirit and firmness; and when you have established your authority, it will then be a time to show your lenity. The Americans, as I said before, are a very good people, and I wish them exceedingly well; but they are heated and inflamed. The noble Lord who spoke before ended with a prayer. I cannot end better than by saying to it, Amen; and in the words of Maurice, prince of Orange, concerning the Hollanders, "God bless this industrious, frugal and well-meaning, but easily-deluded people."

The Stamp Act was repealed, and the Declaratory Act thus advocated by Lord Mansfield, was also passed by a large majority.

BURKE

EDMUND BURKE was born at Dublin, January 1, 1728, (or perhaps 1730). He was educated at Trinity College, Dublin, and afterward studied law at London. He took an A. M. degree at Dublin in 1751, and returned to London to busy himself in literary pursuits. In 1756

he wrote his "Inquiry Into the Origin of Our Ideas of the Sublime and Beautiful," which gave him considerable reputation. In 1759 he became the writer of the Annual Register. Much of his vast knowledge may be traced to this occupation. In 1765, when the Marquis of Rockingham became Prime Minister, he made Burke his private secretary and gave him a seat in Parliament from Wendover. It was at this time that Burke made his great speech for the repeal of the Stamp Tax. By this time he had become one of the leaders in thought of the Whigs. He stood constantly against the policy of taxing the colonies, though he believed Parliament had the right to do it. His famous speech on "Conciliation with America" was made in 1775.

When the failure of the American war had brought about the downfall of Lord North (1782) and the resumption of the ministry by Rockingham, Burke was sent to Parliament from Malton and made Paymaster of the Forces. The same year he resigned on the death of Lord Rockingham, but with Fox formed a coalition with Lord North himself that gave them back the leadership and himself his office.

The latter part of his life his exertions were spent mostly in the effort to reform the administration of India. This occasioned his magnificent speeches against Warren Hastings from 1786 to 1794. When the Revolution burst forth in France, Burke at first took its side, but later was repelled by its violence, and wrote his "Reflections" against the new spirit. He died July 9, 1797.

He was probably England's greatest orator, and one of her greatest statesmen. His chief influence today remains in her policy toward her colonies and the purity of her administration of foreign dependencies.

ON CONCILIATION WITH AMERICA

I hope, Sir, that, notwithstanding the austerity of the chair, your good nature will incline you to some degree of indulgence toward human frailty. You will not think it unnatural that those who have an object depending, which strongly engages their hopes and fears, should be somewhat inclined to superstition. As I came into the House full of anxiety about the event of my motion, I found, to my infinite surprise, that the grand penal bill, by which we had passed sentence on the trade and sustenance of America, is to be returned to us from the other House.

I do confess, I could not help looking on this event as a fortunate omen. I look upon it as a sort of providential favor, by which we are put once more in possession of our deliberative capacity, upon a business so very questionable in its nature, so very uncertain in its issue. By the return of this bill, which seemed to have taken its flight forever, we are, at this very instant, nearly as free to choose a plan for our American government, as we were on the first day of the session. If, Sir, we incline to the side of conciliation, we are not at all embarrassed (unless we please to make ourselves so) by any incongruous mixture of coercion and restraint. We are therefore called upon, as it were, by a superior warning voice, again to attend to America; to attend to the whole of it together; and to review the subject with an unusual degree of care and calmness.

Surely it is an awful subject, or there is none so on this side of the grave. When I first had the honor of a seat in this House, the affairs of that continent pressed themselves upon us as the most important and most delicate object of parliamentary attention. My little share in this great deliberation oppressed me. I found myself a partaker in a very high trust; and having no sort of reason to rely on the strength of my natural abilities for the proper execution of that trust, I was obliged to take more than common pains to instruct myself in everything which relates to our colonies. I was not less under the necessity of forming some fixed ideas concerning the general policy of the British empire. Something of this sort seemed to be indispensable, in order, amid so vast a fluctuation of passions and opinions, to concenter my thoughts; to ballast my conduct; to preserve me from being blown about by every wind of fashionable doctrine. I really did not think it safe, or manly, to have fresh principles to seek upon every fresh mail which should arrive from America.

At that period I had the fortune to find myself in perfect concurrence with a large majority in this House. Bowing under that high authority, and penetrated with the sharpness and strength of that early impression, I have continued ever since in my original sentiments without the least deviation. Whether this be owing to an obstinate perseverance in error, or to a religious adherence to what appears to me truth and reason, it is in your equity to judge.

Sir, Parliament having an enlarged view of objects, made during this interval more frequent changes in their sentiment and their conduct than could be justified in a particular person upon the contracted scale

of private information. But though I do not hazard anything approaching to a censure on the motives of former Parliaments to all those alterations, one fact is undoubted—that under them the state of America has been kept in continual agitation. Everything administered as remedy to the public complaint, if it did not produce, was at least followed by, a heightening of the distemper; until, by a variety of experiments, that important country has been brought into her present situation—a situation which I will not miscall, which I dare not name, which I scarcely know how to comprehend in the terms of any description.

In this posture, Sir, things stood at the beginning of the session. About that time, a worthy member [Mr. Rose Fuller] of great parliamentary experience, who, in the year 1766, filled the chair of the American committee with much ability, took me aside, and, lamenting the present aspect of our politics, told me, things were come to such a pass, that our former methods of proceeding in the House would be no longer tolerated. That the public tribunal (never too indulgent to a long and unsuccessful Opposition) would now scrutinize our conduct with unusual severity. That the very vicissitudes and shiftings of ministerial measures, instead of convicting their authors of inconstancy and want of system, would be taken as an occasion of charging us with a predetermined discontent, which nothing could satisfy; while we accused every measure of vigor as cruel, and every proposal of lenity as weak and irresolute. The public, he said, would not have patience to see us play the game out with our adversaries; we must produce our hand. It would be expected that those who for many years had been active in such affairs, should show that they had formed some clear and decided idea of the principles of colony government, and were capable of drawing out something like a platform of the ground which might be laid for future and permanent tranquility.

I felt the truth of what my honorable friend represented, but I felt my situation too. His application might have been made with far greater propriety to many other gentlemen. No man was, indeed, ever better disposed or worse qualified for such an undertaking than myself. Though I gave so far in to his opinion that I immediately threw my thoughts into a sort of parliamentary form, I was by no means equally ready to produce them. It generally argues some degree of natural impotence of mind, or some want of knowledge of the world, to hazard plans of government, except from a seat of authority. Propositions are made, not only ineffectually, but somewhat disreputably, when the minds

of men are not properly disposed for their reception; and for my part, I am not ambitious of ridicule—not absolutely a candidate for disgrace.

Besides, Sir, to speak the plain truth, I have in general no very exalted opinion of the virtue of paper government, nor of any politics in which the plan is to be wholly separated from the execution. But when I saw that anger and violence prevailed every day more and more, and that things were hastening toward an incurable alienation of our colonies, I confess my caution gave way. I felt this, as one of those few moments in which decorum yields to a higher duty. Public calamity is a mighty leveler, and there are occasions when any, even the slightest chance of doing good, must be laid hold on, even by the most inconsiderable person.

To restore order and repose to an empire so great and so distracted as ours, is, merely in the attempt, an undertaking that would ennoble the flights of the highest genius, and obtain pardon for the efforts of the meanest understanding. Struggling a good while with these thoughts, by degrees I felt myself more firm. I derived, at length, some confidence from what in other circumstances usually produces timidity. I grew less anxious, even from the idea of my own insignificance. For, judging of what you are by what you ought to be, I persuaded myself that you would not reject a reasonable proposition because it had nothing but its reason to recommend it. On the other hand, being totally destitute of all shadow of influence, natural or adventitious, I was very sure that if my proposition were futile or dangerous—if it were weakly conceived or improperly timed, there was nothing exterior to it of power to awe, dazzle or delude you. You will see it just as it is, and you will treat it just as it deserves.

The proposition is peace. Not peace through the medium of war; not peace to be hunted through the labyrinth of intricate and endless negotiations; not peace to arise out of universal discord, fomented from principle, in all parts of the empire; not peace to depend on the juridical determination of perplexing questions, or the precise marking the shadowy boundaries of a complex government. It is simple peace, sought in its natural course and its ordinary haunts. It is peace sought in the spirit of peace, and laid in principles purely pacific. I propose, by removing the ground of the difference, and by restoring the former unsuspecting confidence of the colonies in the mother country, to give permanent satisfaction to your people; and, far from a scheme of ruling by discord,

to reconcile them to each other in the same act, and by the bond of the very same interest, which reconciles them to the British government.

My idea is nothing more. Refined policy ever has been the parent of confusion, and ever will be so as long as the world endures. Plain good intention, which is as easily discovered at the first view as fraud is surely detected at last, is (let me say) of no mean force in the government of mankind. Genuine simplicity of heart is a healing and cementing principle. My plan, therefore, being formed upon the most simple grounds imaginable, may disappoint some people when they hear it. It has nothing to recommend it to the pruriency of curious ears. There is nothing at all new and captivating in it. It has nothing of the splendor of the project which has been lately laid upon your table by the noble Lord in the blue ribbon [Lord North]. It does not propose to fill your lobby with squabbling colony agents, who will require the interposition of your mace at every instant to keep the peace among them. It does not institute a magnificent auction of finance, where captivated provinces come to general ransom by bidding against each other, until you knock down the hammer, and determine a proportion of payments beyond all the powers of algebra to equalize and settle.

The plan which I shall presume to suggest derives, however, one great advantage from the proposition and registry of that noble Lord's project. The idea of conciliation is admissible. First, the House, in accepting the resolution moved by the noble Lord, has admitted, notwithstanding the menacing front of our address, notwithstanding our heavy bill of pains and penalties, that we do not think ourselves precluded from all ideas of free grace and bounty.

The House has gone farther: it has declared conciliation admissible, previous to any submission on the part of America. It has even shot a good deal beyond that mark, and has admitted that the complaints of our former mode of exerting the right of taxation were not wholly unfounded. That right, thus exerted, is allowed to have had something reprehensible in it, something unwise, or something grievous; since, in the midst of our heat and resentment, we, of ourselves, have proposed a capital alteration, and, in order to get rid of what seemed so very exceptionable, have instituted a mode that is altogether new; one that is, indeed, wholly alien from all the ancient methods and forms of Parliament.

The principle of this proceeding is large enough for my purpose. The means proposed by the noble Lord for carrying his ideas into exe-

cution, I think, indeed, are very indifferently suited to the end; and this I shall endeavor to show you before I sit down. But, for the present, I take my ground on the admitted principle. I mean to give peace. Peace implies reconciliation; and, where there has been a material dispute, reconciliation does in a manner always imply concession on the one part or on the other. In this state of things I make no difficulty in affirming that the proposal ought to originate from us. Great and acknowledged force is not impaired, either in effect or in opinion, by an unwillingness to exert itself. The superior power may offer peace with honor and with safety. Such an offer from such a power will be attributed to magnanimity. But the concessions of the weak are the concessions of fear. When such a one is disarmed, he is wholly at the mercy of his superior, and he loses forever that time and those chances which, as they happen to all men, are the strength and resources of all inferior power.

The capital leading questions on which you must this day decide, are these two: First, whether you ought to concede; and, secondly, what your concession ought to be.

On the first of these questions we have gained, as I have just taken the liberty of observing to you, some ground. But I am sensible that a good deal more is still to be done. Indeed, Sir, to enable us to determine both on the one and the other of these great questions with a firm and precise judgment, I think it may be necessary to consider distinctly,

The true nature and the peculiar circumstances of the object which we have before us; because, after all our struggle, whether we will or not, we must govern America according to that nature and to those circumstances, and not according to our imaginations; not according to abstract ideas of right; by no means according to mere general theories of government, the resort to which appears to me, in our present situation, no better than arrant trifling. I shall therefore endeavor, with your leave, to lay before you some of the most material of these circumstances in as full and as clear a manner as I am able to state them.

But, sir, in wishing to put an end to pernicious experiments, I do not mean to preclude the fullest inquiry. Far from it. Far from deciding on a sudden or partial view, I would patiently go round and round the subject, and survey it minutely in every possible aspect. Sir, if I were capable of engaging you to an equal attention, I would state that, as far as I am capable of discerning, there are but three ways of proceeding relative to this stubborn spirit which prevails in your colonies

and disturbs your government. These are, to change that spirit, as inconvenient, by removing the causes; to prosecute it as criminal; or to comply with it as necessary. I would not be guilty of an imperfect enumeration. I can think of but these three. Another has, indeed, been started—that of giving up the colonies; but it met so slight a reception, that I do not think myself obliged to dwell a great while upon it. It is nothing but a little sally of anger, like the forwardness of peevish children, who, when they cannot get all they would have, are resolved to take nothing.

(1.) The first of these plans, to change the spirit, as inconvenient, by removing the causes, I think is the most like a systematic proceeding. It is radical in its principle, but it is attended with great difficulties, some of them little short, as I conceive, of impossibilities. This will appear by examining into the plans which have been proposed.

As the growing population of the colonies is evidently one cause of their resistance, it was last session mentioned in both houses by men of weight, and received, not without applause, that, in order to check this evil, it would be proper for the Crown to make no farther grants of land. But to this scheme there are two objections. The first, that there is already so much unsettled land in private hands as to afford room for an immense future population, although the Crown not only withheld its grants, but annihilated its soil. If this be the case, then the only effect of this avarice of desolation, this hoarding of a royal wilderness, would be to raise the value of the possessions in the hands of the great private monopolists without any adequate check to the growing and alarming mischief of population.

But if you stopped your grants, what would be the consequence? The people would occupy without grants. They have already so occupied in many places. You cannot station garrisons in every part of these deserts. If you drive the people from one place, they will carry on their annual tillage, and remove with their flocks and herds to another. Many of the people in the back settlements are already little attached to particular situations. Already they have topped the Apalachian mountains. From thence they behold before them an immense plain, one vast, rich, level meadow —a square of five hundred miles. Over this they would wander without a possibility of restraint. They would change their manners with the habits of their life; would soon forget a government by which they were disowned; would become hordes of English Tartars; and

pouring down upon your unfortified frontiers a fierce and irresistible cavalry, become masters of your governors and your counselors, your collectors and controllers, and of all the slaves that adhered to them. Such would, and, in no long time, must be the effect of attempting to forbid as a crime, and to suppress as an evil, the command and blessing of Providence, "Increase and multiply." Such would be the happy result of an endeavor to keep as a lair of wild beasts that earth which God by an express charter has given to the children of men. Far different, and surely much wiser, has been our policy hitherto. Hitherto we have invited our people, by every kind of bounty, to fixed establishments. We have invited the husbandman to look to authority for his title. We have taught him piously to believe in the mysterious virtue of wax and parchment. We have thrown each tract of land, as it was peopled, into districts, that the ruling power should never be wholly out of sight. We have settled all we could, and we have carefully attended every settlement with government.

Adhering, Sir, as I do, to this policy, as well as for the reasons I have just given, I think this new project of hedging in population to be neither prudent nor practicable.

To impoverish the colonies in general, and in particular to arrest the noble course of their marine enterprises, would be a more easy task. I freely confess it. We have shown a disposition to a system of this kind; a disposition even to continue the restraint after the offense, looking on ourselves as rivals to our colonies, and persuaded that of course we must gain all that they shall lose. Much mischief we may certainly do. The power inadequate to all other things is often more than sufficient for this. I do not look on the direct and immediate power of the colonies to resist our violence as very formidable. In this, however, I may be mistaken. But when I consider that we have colonies for no purpose but to be serviceable to us, it seems to my poor understanding a little preposterous to make them unserviceable in order to keep them obedient. It is, in truth, nothing more than the old, and, as I thought, exploded problem of tyranny, which proposes to beggar its subjects into submission. But, remember, when you have completed your system of impoverishment, that nature still proceeds in her ordinary course; that discontent will increase with misery; and that there are critical moments in the fortune of all states, when they who are too weak to contribute to your prosperity may be strong enough to complete your ruin. *"Spoliatis arma supersunt."*

The temper and character which prevail in our colonies are, I am afraid, unalterable by any human art. We cannot, I fear, falsify the pedigree of this fierce people, and persuade them that they are not sprung from a nation in whose veins the blood of freedom circulates. The language in which they would hear you tell them this tale would detect the imposition. Your speech would betray you. An Englishman is the unfittest person on earth to argue another Englishman into slavery.

I think it is nearly as little in our power to change their republican religion as their free descent; or to substitute the Roman Catholic as a penalty, or the Church of England as an improvement. The mode of inquisition and dragooning is going out of fashion in the old world, and I should not confide much to their efficacy in the new. The education of the Americans is also on the same unalterable bottom with their religion. You cannot persuade them to burn their books of curious science; to banish their lawyers from their courts of law; or to quench the lights of their assemblies, by refusing to choose those persons who are best read in their privileges. It would be no less impracticable to think of wholly annihilating the popular assemblies in which these lawyers sit. The army, by which we must govern in their place, would be far more chargeable to us; not quite so effectual; and perhaps, in the end, full as difficult to be kept in obedience.

With regard to the high aristocratic spirit of Virginia and the southern colonies, it has been proposed, I know, to reduce it, by declaring a general enfranchisement of their slaves. This project has had its advocates and its panegyrists, yet I never could argue myself into an opinion of it. Slaves are often much attached to their masters. A general wild offer of liberty would not always be accepted. History furnishes few instances of it. It is sometimes as hard to persuade slaves to be free as it is to compel freemen to be slaves; and in this auspicious scheme we should have both these pleasing tasks on our hands at once. But when we talk of enfranchisement, do we not perceive that the American master may enfranchise, too, and arm servile hands in defense of freedom? A measure to which other people have had recourse more than once, and not without success, in a desperate situation of their affairs.

Slaves as these unfortunate black people are, and dull as all men are from slavery, must they not a little suspect the offer of freedom from that very nation which has sold them to their present masters? From that nation, one of whose causes of quarrel with those masters is their

refusal to deal any more in that inhuman traffic? An offer of freedom from England would come rather oddly, shipped to them in an African vessel, which is refused an entry into the ports of Virginia or Carolina, with a cargo of three hundred Angola negroes. It would be curious to see the Guinea captain attempt at the same instant to publish his proclamation of liberty and to advertise his sale of slaves.

But let us suppose all these moral difficulties got over. The ocean remains. You cannot pump this dry; and as long as it continues in its present bed, so long all the causes which weaken authority by distance will continue.

> Ye gods! annihilate but space and time,
> And make two lovers happy!

was a pious and passionate prayer, but just as reasonable as many of these serious wishes of very grave and solemn politicians.

(2.) If then, sir, it seems almost desperate to think of any alterative course for changing the moral causes (and not quite easy to remove the natural) which produce the prejudices irreconciliable to the late exercise of our authority, but that the spirit infallibly will continue, and, continuing, will produce such effects as now embarrass us, the second mode under consideration is to prosecute that spirit in its overt acts as criminal.

At this proposition I must pause a moment. The thing seems a great deal too big for my ideas of jurisprudence. It should seem, to my way of conceiving such matters, that there is a very wide difference in reason and policy between the mode of proceeding on the irregular conduct of scattered individuals, or even of bands of men, who disturb order within the state, and the civil dissensions which may, from time to time, on great questions, agitate the several communities which compose a great empire. It looks to me to be narrow and pedantic to apply the ordinary ideas of criminal justice to this great public contest. I do not know the method of drawing up an indictment against a whole people. I cannot insult and ridicule the feelings of millions of my fellow-creatures, as Sir Edward Coke insulted one excellent individual [Sir Walter Raleigh] at the bar. I am not ripe to pass sentence on the gravest public bodies, intrusted with magistracies of great authority and dignity, and charged with the safety of their fellow-citizens, upon the very same title that I am. I really think that, for wise men, this is not judicious; for sober men, not decent; for minds tinctured with humanity, not mild and merciful.

Perhaps, Sir, I am mistaken in my idea of an empire, as distinguished from a single state or kingdom. But my idea of it is this: that an empire is the aggregate of many states, under one common head, whether this head be a monarch or a presiding republic. It does, in such constitutions, frequently happen (and nothing but the dismal, cold, dead uniformity of servitude can prevent its happening) that the subordinate parts have many local privileges and immunities. Between these privileges and the supreme common authority, the line may be extremely nice. Of course, disputes—often, too, very bitter disputes, and much ill blood, will arise. But though every privilege is an exemption, in the case, from the ordinary exercise of the supreme authority, it is no denial of it. The claim of a privilege seems rather, *ex vi termini,* to imply a superior power; for to talk of the privileges of a state or of a person who has no superior, is hardly any better than speaking nonsense. Now, in such unfortunate quarrels among the component parts of a great political union of communities, I can scarcely conceive anything more completely imprudent than for the head of the empire to insist that, if any privilege is pleaded against his will or his acts, that his whole authority is denied; instantly to proclaim rebellion, to beat to arms, and to put the offending provinces under the ban. Will not this, Sir, very soon teach the provinces to make no distinctions on their part? Will it not teach them that the government against which a claim of liberty is tantamount to high treason, is a government to which submission is equivalent to slavery? It may not always be quite convenient to impress dependent communities with such an idea.

We are, indeed, in all disputes with the colonies, by the necessity of things, the judge. It is true, Sir; but I confess that the character of judge in my own cause is a thing that frightens me. Instead of filling me with pride, I am exceedingly humbled by it. I cannot proceed with a stern, assured, judicial confidence, until I find myself in something more like a judicial character. I must have these hesitations as long as I am compelled to recollect that, in my little reading upon such contests as these, the sense of mankind has at least as often decided against the superior as the subordinate power. Sir, let me add, too, that the opinion of my having some abstract right in my favor would not put me much at my ease in passing sentence, unless I could be sure that there were no rights which, in their exercise under certain circumstances, were not the most odious of all wrongs, and the most vexatious of all injustice. Sir, these considerations have great weight with me, when I find things so

circumstanced that I see the same party at once a civil litigant against me in point of right and a culprit before me; while I sit as criminal judge on acts of his whose moral quality is to be decided on upon the merits of that very litigation. Men are every now and then put, by the complexity of human affairs, into strange situations; but justice is the same, let the judge be in what situation he will.

There is, Sir, also a circumstance which convinces me that this mode of criminal proceeding is not, at least in the present stage of our contest, altogether expedient, which is nothing less than the conduct of those very persons who have seemed to adopt that mode, by lately declaring a rebellion in Massachusetts Bay, as they had formerly addressed to have traitors brought thither, under an act of Henry the Eighth, for trial. For, though rebellion is declared, it is not proceeded against as such; nor have any steps been taken toward the apprehension or conviction of any individual offender, either on our late or our former address; but modes of public coercion have been adopted, and such as have much more resemblance to a sort of qualified hostility toward an independent power than the punishment of rebellious subjects. All this seems rather inconsistent; but it shows how difficult it is to apply these juridical ideas to our present case.

In this situation, let us seriously and coolly ponder. What is it we have got by all our menaces, which have been many and ferocious? What advantage have we derived from the penal laws we have passed, and which, for the time, have been severe and numerous? What advances have we made toward our object by the sending of a force which, by land and sea, is no contemptible strength? Has the disorder abated? Nothing less. When I see things in this situation, after such confident hopes, bold promises, and active exertions, I cannot, for my life, avoid a suspicion that the plan itself is not correctly right.

If, then, the removal of the causes of this spirit of American liberty be, for the greater part, or rather entirely impracticable; if the ideas of criminal process be inapplicable, or, if applicable, are in the highest degree inexpedient, what way yet remains? No way is open but the third and last—to comply with the American spirit as necessary, or, if you please, to submit to it as a necessary evil.

If we adopt this mode, if we mean to conciliate and concede, let us see of what nature the concession ought to be. To ascertain the nature of our concession, we must look at their complaint. The colonies complain that they have not the characteristic mark and seal of

British freedom. They complain that they are taxed in Parliament in which they are not represented. If you mean to satisfy them at all, you must satisfy them with regard to this complaint. If you mean to please any people, you must give them the boon which they ask; not what you may think better for them, but of a kind totally different. Such an act may be a wise regulation, but it is no concession, whereas our present theme is the mode of giving satisfaction.

Sir, I think you must perceive that I am resolved this day to have nothing at all to do with the question of the right of taxation. Some gentlemen startle, but it is true. I put it totally out of the question. It is less than nothing in my consideration. I do not, indeed, wonder, nor will you, Sir, that gentlemen of profound learning are fond of displaying it on this profound subject. But my consideration is narrow, confined, and wholly limited to the policy of the question. I do not examine whether the giving away a man's money be a power excepted and reserved out of the general trust of government, and how far, all mankind, in all forms of polity, are entitled to an exercise of that right by the charter of nature; or whether, on the contrary, a right of taxation is necessarily involved in the general principle of legislation, and inseparable from the ordinary supreme power. These are deep questions, where great names militate against each other; where reason is perplexed; and an appeal to authorities only thickens the confusion; for high and reverend authorities lift up their heads on both sides, and there is no sure footing in the middle. This point is

> That Serbonian bog
> Betwixt Damieta and Mount Cassius old,
> Where armies whole have sunk.
> *Milton's Paradise Lost, ii.*, 594.

I do not intend to be overwhelmed in this bog, though in such respectable company. The question with me is, not whether you have a right to render your people miserable, but whether it is not your interest to make them happy. It is not what a lawyer tells me I may do, but what humanity, reason, and justice tell me I ought to do. Is a politic act the worse for being a generous one? Is no concession proper but that which is made from your want of right to keep what you grant? Or does it lessen the grace or dignity of relaxing in the exercise of an odious claim, because you have your evidence-room full of titles, and your magazines stuffed with arms to enforce them? What signify all those titles and all those arms? Of what avail are they, when the reason of the

thing tells me that the assertion of my title is the loss of my suit, and that I could do nothing but wound myself by the use of my own weapons?

Such is steadfastly my opinion of the absolute necessity of keeping up the concord of this empire by a unity of spirit, though in a diversity of operations, that, if I were sure the colonists had, at their leaving this country, sealed a regular compact of servitude; that they had solemnly abjured all the rights of citizens; that they had made a vow to renounce all ideas of liberty for them and their posterity to all generations, yet I should hold myself obliged to conform to the temper I found universally prevalent in my own day, and to govern two millions of men, impatient of servitude, on the principles of freedom. I am not determining a point of law. I am restoring tranquility, and the general character and situation of a people must determine what sort of government is fitted for them. That point nothing else can or ought to determine.

My idea, therefore, without considering whether we yield as matter of right, or grant as matter of favor, is to admit the people of our colonies into an interest in the constitution, and, by recording that admission in the journals of Parliament, to give them as strong an assurance as the nature of the thing will admit, that we mean forever to adhere to that solemn declaration of systematic indulgence.

Some years ago the repeal of a revenue act, upon its understood principle, might have served to show that we intended an unconditional abatement of the exercise of a taxing power. Such a measure was then sufficient to remove all suspicion, and to give perfect content. But unfortunate events, since that time, may make something farther necessary, and not more necessary for the satisfaction of the colonies, than for the dignity and consistency of our own future proceedings.

I have taken a very incorrect measure of the disposition of the House if this proposal in itself would be received with dislike. I think, Sir, we have few American financiers. But our misfortune is, we are too acute; we are too exquisite in our conjectures of the future, for men oppressed with such great and present evils. The more moderate among the opposers of parliamentary concession freely confess that they hope no good from taxation, but they apprehend the colonists have farther views, and, if this point were conceded, they would instantly attack the Trade Laws. These gentlemen are convinced that this was the intention from the beginning, and the quarrel of the Americans with taxation was no more than a cloak and cover to this design. Such has been the language even

of a gentleman [Mr. Rice] of real moderation, and of a natural temper well adjusted to fair and equal government. I am, however, Sir, not a little surprised at this kind of discourse, whenever I hear it; and I am the more surprised, on account of the arguments which I constantly find in company with it, and which are often urged from the same mouths and on the same day.

For instance, when we allege that it is against reason to tax a people under so many restraints of trade as the Americans, the noble lord [Lord North] in the blue ribbon shall tell you that the restraints on trade are futile and useless; of no advantage to us, and of no burden to those on whom they are imposed; that the trade of America is not secured by the acts of navigation, but by the natural and irresistible advantage of a commercial preference.

Such is the merit of the trade laws in this posture of the debate. But when strong internal circumstances are urged against the taxes; when the scheme is dissected; when experience and the nature of things are brought to prove, and do prove, the utter impossibility of obtaining an effective revenue from the colonies; when these things are pressed, or rather press themselves, so as to drive the advocates of colony taxes to a clear admission of the futility of the scheme; then, Sir, the sleeping trade laws revive from their trance, and this useless taxation is to be kept sacred, not for its own sake, but as a counterguard and security of the laws of trade.

Then, Sir, you keep up revenue laws which are mischievous, in order to preserve trade laws that are useless. Such is the wisdom of our plan in both its members. They are separately given up as of no value, and yet one is always to be defended for the sake of the other. But I cannot agree with the noble Lord, nor with the pamphlet from whence he seems to have borrowed these ideas, concerning the inutility of the trade laws; for, without idolizing them, I am sure they are still, in many ways, of great use to us; and in former times they have been of the greatest. They do confine, and they do greatly narrow the market for the Americans; but my perfect conviction of this does not help me in the least to discern how the revenue laws form any security whatsoever to the commercial regulations, or that these commercial regulations are the true ground of the quarrel, or that the giving away in any one instance of authority is to lose all that may remain unconceded.

One fact is clear and indisputable. The public and avowed origin of this quarrel was on taxation. This quarrel has indeed brought on

new disputes on new questions, but certainly the least bitter, and the fewest of all, on the trade laws. To judge which of the two be the real radical cause of quarrel, we have to see whether the commercial dispute did, in order of time, precede the dispute on taxation. There is not a shadow of evidence for it. Next, to enable us to judge whether at this moment a dislike to the trade laws be the real cause of quarrel, it is absolutely necessary to put the taxes out of the question by a repeal. See how the Americans act in this position, and then you will be able to discern correctly what is the true object of the controversy, or whether any controversy at all will remain. Unless you consent to remove this cause of difference, it is impossible, with decency, to assert that the dispute is not upon what it is avowed to be. And I would, Sir, recommend to your serious consideration, whether it be prudent to form a rule for punishing people, not on their own acts, but on your conjectures. Surely it is preposterous at the very best. It is not justifying your anger by their misconduct, but it is converting your ill will into their delinquency.

But the colonies will go farther. Alas! alas! when will this speculating against fact and reason end? What will quiet these panic fears which we entertain of the hostile effect of a conciliatory conduct? Is it true that no case can exist in which it is proper for the sovereign to accede to the desire of his discontented subjects? Is there anything peculiar in this case to make a rule for itself? Is all authority of course lost, when it is not pushed to the extreme? Is it a certain maxim, that the fewer causes of dissatisfaction are left by government the more the subject will be inclined to resist and rebel?

All these objections being, in fact, no more than suspicions, conjectures, divinations, formed in defiance of fact and experience, they did not, Sir, discourage me from entertaining the idea of a conciliatory concession, founded on the principles which I have just stated.

In forming a plan for this purpose, I endeavored to put myself in that frame of mind which was the most natural and the most reasonable, and which was certainly the most probable means of securing me from all error. I set out with a perfect distrust of my own abilities; a total renunciation of every speculation of my own; and with a profound reverence for the wisdom of our ancestors, who have left us the inheritance of so happy a constitution and so flourishing an empire, and, what is a thousand times more valuable, the treasury of the maxims and principles which formed the one and obtained the other.

During the reigns of the kings of Spain of the Austrian family, whenever they were at a loss in the Spanish councils, it was common

for their statesmen to say, that they ought to consult the genius of Philip the Second. The genius of Philip the Second might mislead them; and the issue of their affairs showed that they had not chosen the most perfect standard. But, Sir, I am sure that I shall not be misled, when, in a case of constitutional difficulty, I consult the genius of the English constitution. Consulting at that oracle (it was with all due humility and piety), I found four capital examples in a similar case before me: those of Ireland, Wales, Chester, and Durham.

(1.) Ireland, before the English conquest, though never governed by a despotic power, had no Parliament. How far the English Parliament itself was at that time modeled according to the present form, is disputed among antiquarians. But we have all the reason in the world to be assured, that a form of Parliament, such as England then enjoyed, she instantly communicated to Ireland; and we are equally sure that almost every successive improvement in constitutional liberty, as fast as it was made here, was transmitted thither. The feudal baronage and the feudal knighthood, the roots of our primitive constitution, were early transplanted into that soil, and grew and flourished there. Magna Charta, if it did not give us originally the House of Commons, gave us, at least, a House of Commons of weight and consequence. But your ancestors did not churlishly sit down alone to the feast of Magna Charta. Ireland was made immediately a partaker. This benefit of English laws and liberties, I confess, was not at first extended to all Ireland. Mark the consequence. English authority and English liberty had exactly the same boundaries. Your standard could never be advanced an inch before your privileges. Sir John Davis shows beyond a doubt, that the refusal of a general communication of these rights was the true cause why Ireland was five hundred years in subduing; and after the vain projects of a military government, attempted in the reign of Queen Elizabeth, it was soon discovered that nothing could make that country English, in civility and allegiance, but your laws and your forms of legislature. It was not English arms, but the English constitution, that conquered Ireland. From that time, Ireland has ever had a general Parliament, as she had before a partial Parliament. You changed the people; you altered the religion; but you never touched the form or the vital substance of free government in that kingdom. You deposed kings; you restored them; you altered the succession to theirs, as well as to your own crown; but you never altered their constitution; the principle of which was respected by usurpation; restored with the restoration of monarchy, and established, I trust, for-

ever, by the glorious revolution. This has made Ireland the great and flourishing kingdom that it is; and from a disgrace and a burden intolerable to this nation, has rendered her a principal part of our strength and ornament. This country cannot be said to have ever formally taxed her. The irregular things done in the confusion of mighty troubles, and on the hinge of great revolutions, even if all were done that is said to have been done, form no example. If they have any effect in argument, they make an exception to prove the rule. None of your own liberties could stand a moment if the casual deviations from them, at such times, were suffered to be used as proofs of their nullity. By the lucrative amount of such casual breaches in the constitution, judge what the stated and fixed rule of supply has been in that kingdom. Your Irish pensioners would starve, if they had no other fund to live on than taxes granted by English authority. Turn your eyes to those popular grants from whence all your great supplies are come, and learn to respect that only source of public wealth in the British empire.

(2.) My next example is Wales. This country was said to be reduced by Henry theThird. It was said more truly to be so by Edward the First. But though then conquered, it was not looked upon as any part of the realm of England. Its old constitution, whatever that might have been, was destroyed and no good one was substituted in its place. The care of that tract was put into the hands of lords marchers—a form of government of a very singular kind; a strange heterogeneous monster, something between hostility and government; perhaps it has a sort of resemblance, according to the modes of those times, to that of commander-in-chief at present, to whom all civil power is granted as secondary. The manners of the Welsh nation followed the genius of the government. The people were ferocious, restive, savage, and uncultivated; sometimes composed, never pacified. Wales, within itself, was in perpetual disorder; and it kept the frontier of England in perpetual alarm. Benefits from it to the state there were none. Wales was only known to England by incursion and invasion.

Sir, during that state of things, Parliament was not idle. They attempted to subdue the fierce spirit of the Welsh by all sorts of rigorous laws. They prohibited by statute the sending all sorts of arms into Wales, as you prohibit by proclamation (with something more of doubt on the legality) the sending arms to America. They disarmed the Welsh by statute, as you attempted (but still with more question on the legality) to disarm New England by an instruction. They made an act to drag offenders from Wales into England for trial, as you have done (but

with more hardship) with regard to America. By another act, where one of the parties was an Englishman, they ordained that his trial should be always by English. They made acts to restrain trade, as you do; and they prevented the Welsh from the use of fairs and markets, as you do the Americans from fisheries and foreign ports. In short, when the statute-book was not quite so much swelled as it is now, you find no less than fifteen acts of penal regulation on the subject of Wales.

Here we rub our hands. A fine body of precedents for the authority of Parliament and the use of it! I admit it fully; and pray add likewise to these precedents, that all the while Wales rid this kingdom like an *incubus;* that it was an unprofitable and oppressive burden; and that an Englishman traveling in that country could not go six yards from the high road without being murdered.

The march of the human mind is slow. Sir, it was not until after two hundred years discovered that, by an eternal law, Providence had decreed vexation to violence, and poverty to rapine. Your ancestors did, however, at length open their eyes to the ill husbandry of injustice. They found that the tyranny of a free people could of all tyrannies the least be endured, and that laws made against a whole nation were not the most effectual methods for securing its obedience. Accordingly, in the twenty-seventh year of Henry VIII., the course was entirely altered. With a preamble stating the entire and perfect rights of the Crown of England, it gave to the Welsh all the rights and privileges of English subjects. A political order was established; the military power gave way to the civil; the marches were turned into counties. But that a nation should have a right to English liberties, and yet no share at all in the fundamental security of these liberties, the grant of their own property, seemed a thing so incongruous, that, eight years after, that is, in the thirty-fifth of that reign, a complete and not ill-proportioned representation by counties and boroughs was bestowed upon Wales by act of Parliament. From that moment, as by a charm, the tumults subsided; obedience was restored; peace, order, and civilization followed in the train of liberty. When the day-star of the English Constitution had arisen in their hearts, all was harmony within and without.

Simul alba nautis
Stella refulsit,
Defluit saxis agitatus humor:
Concidunt venti, fugiuntque nubes;
Et minax (quod sic voluere) ponto
Unda recumbit.

(3.) The very same year the county palatine of Chester received the same relief from its oppressions and the same remedy to its disorders. Before this time Chester was little less distempered than Wales. The inhabitants, without rights themselves, were the fittest to destroy the rights of others; and from thence Richard II. drew the standing army of archers with which for a time he oppressed England. The people of Chester applied to Parliament in a petition penned as I shall read to you:

"To the King, our sovereign lord, in most humble wise shown unto your excellent Majesty, the inhabitants of your grace's county palatine of Chester; that where the said county palatine of Chester is and hath been always hitherto exempt, excluded and separated out and from your high court of Parliament, to have any knights and burgesses within the said court; by reason whereof the said inhabitants have hitherto sustained manifold disherisons, losses, and damages, as well in their lands, goods, and bodies, as in the good, civil, and politic governance and maintenance of the commonwealth of their said country: And, forasmuch as the said inhabitants have always hitherto been bound by the acts and statutes made and ordained by your said highness and your most noble progenitors, by authority of the said court, as far forth as other counties, cities, and boroughs have been, that have had their knights and burgesses within your said court of Parliament, and yet have had neither knight nor burgess there for the said county palatine; the said inhabitants, for lack thereof, have been oftentimes touched and grieved with acts and statutes made within the said court, as well derogatory unto the most ancient jurisdictions, liberties, and privileges of your said county palatine, as prejudicial unto the commonwealth, quietness, rest, and peace of your grace's most bounden subjects inhabiting within the same."

What did Parliament with this audacious address? Reject it as a libel? Treat it as an affront to government? Spurn it as a derogation from the rights of legislature? Did they toss it over the table? Did they burn it by the hands of the common hangman? They took the petition of grievance, all rugged as it was, without softening or temperament, unpurged of the original bitterness and indignation of complaint; they made it the very preamble to their act of redress, and consecrated its principle to all ages in the sanctuary of legislation.

Here is my third example. It was attended with the success of the two former. Chester, civilized as well as Wales, has demonstrated that freedom, and not servitude, is the cure of anarchy, as religion, and not

atheism, is the true remedy for superstition. Sir, this pattern of Chester was followed in the reign of Charles II. with regard to the county palatine of Durham, which is my fourth example. This county had long lain out of the pale of free legislation. So scrupulously was the example of Chester followed, that the style of the preamble is nearly the same with that of the Chester act; and without affecting the abstract extent of the authority of Parliament, it recognizes the equity of not suffering any considerable district in which the British subjects may act as a body to be taxed without their own voice in the grant.

Now, if the doctrines of policy contained in these preambles, and the force of these examples in the acts of Parliament, avail anything, what can be said against applying them with regard to America? Are not the people of America as much Englishmen as the Welsh? The preamble of the act of Henry VIII. says the Welsh speak a language in no way resembling that of his Majesty's English subjects. Are the Americans not as numerous? If we may trust the learned and accurate Judge Barrington's account of North Wales, and take that as a standard to measure the rest, there is no comparison. The people cannot amount to above two hundred thousand; not a tenth part of the number in the colonies. Is America in rebellion? Wales was hardly ever free from it. Have you attempted to govern America by penal statutes? You made fifteen for Wales. But your legislative authority is perfect with regard to America. Was it less perfect in Wales, Chester, and Durham? But America is virtually represented. What! does the electric force of virtual representation more easily pass over the Atlantic than pervade Wales, which lies in your neighborhood; or than Chester and Durham, surrounded by abundance of representation that is actual and palpable? But, Sir, your ancestors thought this sort of virtual representation, however ample, to be totally insufficient for the freedom of the inhabitants of territories that are so near, and comparatively so inconsiderable. How, then, can I think it sufficient for those which are infinitely greater and infinitely more remote?

You will now, sir, perhaps imagine that I am on the point of proposing to you a scheme for representation of the colonies in Parliament. Perhaps I might be inclined to entertain some such thought, but a great flood stops me in my course. *Opposuit natura.* I cannot remove the eternal barriers of the creation. The thing in that mode I do not know to be possible. As I meddle with no theory, I do not absolutely assert the impracticability of such a representation; but I do not see my way to

it; and those who have been more confident have not been more successful. However, the arm of public benevolence is not shortened, and there are often several means to the same end. What nature has disjoined in one way wisdom may unite in another. When we cannot give the benefit as we would wish, let us not refuse it altogether. If we cannot give the principal, let us find a substitute. But how? Where? What substitute?

Fortunately I am not obliged for the ways and means of this substitute to tax my own unproductive invention. I am not even obliged to go to the rich treasury of the fertile framers of imaginary commonwealths; not to the Republic of Plato, not to the Utopia of More, not to the Oceana of Harrington. It is before me. It is at my feet,

> And the dull swain
> Treads daily on it with his clouted shoon.
>
> —*Milton's Comus.*

I only wish you to recognize, for the theory, the ancient constitutional policy of this kingdom with regard to representation, as that policy has been declared in acts of Parliament; and, as to the practice, to return to that mode which a uniform experience has marked out to you as best, and in which you walked with security, advantage, and honor, until the year 1763.

My resolutions, therefore, mean to establish the equity and justice of a taxation of America by grant, and not by imposition. To mark the legal competency of the colony assemblies for the support of their government in peace, and for public aids in time of war. To acknowledge that this legal competency has had a dutiful and beneficial exercise; and that experience has shown the benefit of their grants, and the futility of parliamentary taxation as a method of supply.

These solid truths compose six fundamental propositions. There are three more resolutions corollary to these. If you admit the first set, you can hardly reject the others. But if you admit the first, I shall be far from solicitous whether you accept or refuse the last. I think these six massive pillars will be of strength sufficient to support the temple of British concord. I have no more doubt than I entertain of my existence, that, if you admitted these, you would command an immediate peace; and, with but tolerable future management, a lasting obedience in America. I am not arrogant in this confident assurance. The propositions are all mere matters of fact; and if they are such facts as draw irresistible conclusions even in the stating, this is the power of truth, and not any management of mine.

Sir, I shall open the whole plan to you together, with such observations on the motions as may tend to illustrate them where they may want explanation. The first is a resolution "That the colonies and plantations of Great Britain in North America, consisting of fourteen separate governments, and containing two millions and upward of free inhabitants, have not had the liberty and privilege of electing and sending any knights and burgesses or others to represent them in the high court of Parliament." This is a plain matter of fact, necessary to be laid down, and (excepting the description) it is laid down in the language of the Constitution; it is taken nearly *verbatim* from acts of Parliament.

The second is like unto the first, "That the said colonies and plantations have been liable to and bounden by several subsidies, payments, rates, and taxes, given and granted by Parliament, though the said colonies and plantations have not their knights and burgesses in the said high court of Parliament, of their own election, to represent the condition of their country; by lack whereof they have been oftentimes touched and grieved by subsidies given, granted, and assented to, in said court, in a manner prejudicial to the commonwealth, quietness, rest, and peace of the subjects inhabiting within the same."

Is this description too hot or too cold, too strong or too weak? Does it arrogate too much to the supreme Legislature? Does it lean too much to the claims of the people? If it runs into any of these errors, the fault is not mine. It is the language of your own ancient acts of Parliament.

Non meus hic sermo est sed quae praecipit Ofellus,
Rusticus, abnormis sapiens.

It is the genuine produce of the ancient, rustic, manly, home-bred sense of this country. I did not dare to rub off a particle of the venerable rust that rather adorns and preserves, than destroys the metal. It would be a profanation to touch with a tool the stones which construct the sacred altar of peace. I would not violate with modern polish the ingenuous and noble roughness of these truly constitutional materials. Above all things, I was resolved not to be guilty of tampering, the odious vice of restless and unstable minds. I put my foot in the tracks of our forefathers, where I can neither wander nor stumble. Determining to fix articles of peace, I was resolved not to be wise beyond what was written; I was resolved to use nothing else than the form of sound words, to let others abound in their own sense, and carefully to abstain from all expressions of my own. What the law has said, I say.

In all things else I am silent. I have no organ but for her words. This, if it be not ingenious, I am sure, is safe.

There are, indeed, words expressive of grievance in this second resolution, which those who are resolved always to be in the right will deny to contain matter of fact, as applied to the present case, although Parliament thought them true with regard to the counties of Chester and Durham. They will deny that the Americans were ever "touched and grieved" with the taxes. If they consider nothing in taxes but their weight as pecuniary impositions, there might be some pretense for this denial. But men may be sorely touched and deeply grieved in their privileges as well as in their purses. Men may lose little in property by the act which takes away all their freedom. When a man is robbed of a trifle on the highway, it is not the twopence lost that constitutes the capital outrage. This is not confined to privileges. Even ancient indulgences withdrawn, without offense on the part of those who enjoyed such favors, operate as grievances. But were the Americans, then, not touched and grieved by the taxes, in some measure, merely as taxes. If so, why were they almost all either wholly repealed or exceedingly reduced? Were they not touched and grieved, even by the regulating duties of the sixth of George II.? Else why were the duties first reduced to one-third in 1764, and afterward to a third of that third in the year 1766? Were they not touched and grieved by the Stamp Act? I shall say they were, until that tax was repealed. Were they not touched and grieved by the duties of 1767, which were likewise repealed, and which Lord Hillsborough tells you, for the ministry, were laid contrary to the true principle of commerce? Is not the assurance given by that noble person to the colonies of a resolution to lay no more taxes on them an admission that taxes would touch and grieve them? Is not the resolution of the noble Lord in the blue ribbon, now standing on your journals, the strongest of all proofs that parliamentary subsidies really touched and grieved them? Else why all these changes, modifications, repeals, assurances, and resolutions?

The next proposition is, "That, from the distance of the said colonies, and from other circumstances, no method hath hitherto been devised for procuring a representation in Parliament for the said colonies." This is an assertion of a fact. I go no farther on the paper; though, in my private judgment, a useful representation is impossible;

I am sure it is not desired by them, nor ought it, perhaps, by us; but I abstain from opinions.

The fourth resolution is, "That each of the said colonies hath within itself a body, chosen in part, or in the whole, by the freemen, freeholders, or other free inhabitants thereof, commonly called the General Assembly, or General Court, with powers legally to raise, levy, and assess, according to the several usages of such colonies, duties and taxes toward the defraying of all sorts of public services."

This competence in the colony assemblies is certain. It is proved by the whole tenor of their acts of supply in all the assemblies, in which the constant style of granting is, "an aid to his Majesty;" and acts granting to the Crown have regularly for near a century passed the public offices without dispute. Those who have been pleased paradoxically to deny this right, holding that none but the British Parliament can grant to the Crown, are wished to look to what is done, not only in the colonies, but in Ireland, in one uniform, unbroken tenor every session. Sir, I am surprised that this doctrine should come from some of the law servants of the Crown. I say that if the Crown could be responsible, his Majesty—but certainly the ministers, and even these law officers themselves, through whose hands the acts pass biennially in Ireland, or annually in the colonies, are in a habitual course of committing impeachable offenses. What habitual offenders have been all presidents of the council, all secretaries of state, all first lords of trade, all attorneys, and all solicitors general! However, they are safe, as no one impeaches them; and there is no ground of charge against them except in their own unfounded theories.

The fifth resolution is also a resolution of fact: "That the said General Assemblies, General Courts, or other bodies legally qualified as aforesaid, have at sundry times freely granted several large subsidies and public aids for his Majesty's service, according to their abilities, when required thereto by letter from one of his Majesty's principal secretaries of state. And that their right to grant the same, and their cheerfulness and sufficiency in the said grants, have been at sundry times acknowledged by Parliament." To say nothing of their great expenses in the Indian wars; and not to take their exertion in foreign ones, so high as the supplies in the year 1695, not to go back to their public contributions in the year 1710, I shall begin to travel only where the journals give me light; resolving to deal in nothing but fact authenticated by parliamentary record, and to build myself wholly on that solid basis.

On the 4th of April, 1748, a committee of this House came to the following resolution:

"Resolved, That it is the opinion of this committee, that it is just and reasonable that the several provinces and colonies of Massachusetts Bay, New Hampshire, Connecticut, and Rhode Island be reimbursed the expenses they have been at in taking and securing to the Crown of Great Britain the island of Cape Breton and its dependencies."

These expenses were immense for such colonies. They were above £200,000 sterling, money first raised and advanced on their public credit.

On the 28th of January, 1756, a message from the King came to us, to this effect: "His Majesty, being sensible of the zeal and vigor with which his faithful subjects of certain colonies in North America have exerted themselves in defense of his Majesty's just rights and possessions, recommends it to this House to take the same into their consideration, and to enable his Majesty to give them such assistance as may be a proper reward and encouragement."

On the third of February, 1756, the House came to a suitable resolution, expressed in words nearly the same as those of the message; but with the farther addition, that the money then voted was an encouragement to the colonies to exert themselves with vigor. It will not be necessary to go through all the testimonies which your own records have given to the truth of my resolutions. I will only refer you to the places in the journals:

Vol. xxvii. 16th and 19th May, 1757.

Vol. xxviii. June 1st, 1758—April 26th and 30th, 1759—March 26th and 31st, and April 28th, 1760—Jan. 9th and 20th, 1761.

Vol. xxix. Jan. 22nd and 26th, 1762—March 14th and 17th, 1763.

Sir, here is the repeated acknowledgement of Parliament, that the colonies not only gave, but gave to satiety. This nation has formally acknowledged two things: first, that the colonies had gone beyond their abilities, Parliament having thought it necessary to reimburse them; secondly, that they had acted legally and laudably in their grants of money, and their maintenance of troops, since the compensation is expressly given as reward and encouragement. Reward is not bestowed for acts that are unlawful; and encouragement is not held out to things that deserve reprehension. My resolution, therefore, does nothing more than collect into one proposition what is scattered through your journals. I give you nothing but your own, and you cannot refuse in the gross what you have so often acknowledged in detail. The admission of

this, which will be so honorable to them and to you, will, indeed, be mortal to all the miserable stories by which the passions of the misguided people have been engaged in an unhappy system. The people heard, indeed, from the beginning of these disputes, one thing continually dinned in their ears, that reason and justice demanded that the Americans, who paid no taxes, should be compelled to contribute. How did that fact of their paying nothing stand, when the taxing system began? When Mr. Grenville began to form his system of American revenue, he stated in this House that the colonies were then in debt two million six hundred thousand pounds sterling money, and was of the opinion they would discharge that debt in four years. On this state, those untaxed people were actually subject to the payment of taxes to the amount of six hundred and fifty thousand a year. In fact, however, Mr. Grenville was mistaken. The funds given for sinking the debt did not prove quite so ample as both the colonies and he expected. The calculation was too sanguine: the reduction was not completed till some years after, and at different times in different colonies. However, the taxes after the war continued too great to bear any addition, with prudence or propriety; and when the burdens imposed in consequence of former requisitions were discharged, our tone became too high to resort again to requisition. No colony, since that time, ever has had any requisition whatsoever made to it.

We see the sense of the Crown, and the sense of Parliament, on the productive nature of a revenue by grant. Now search the same journals for the produce of the revenue by imposition. Where is it? Let us know the volume and the page. What is the gross, what is the net produce? To what service is it applied? How have you appropriated its surplus? What, can none of the many skilful index-makers that we are now employing, find any trace of it? Well, let them and that rest together. But are the journals, which say nothing of the revenue, as silent on the discontent? Oh, no! a child may find it. It is the melancholy burden and blot of every page.

I think, then, I am, from those journals, justified in the sixth and last resolution, which is: "That it hath been found by experience, that the manner of granting the said supplies and aids, by the said general assemblies, hath been more agreeable to the said colonies, and more beneficial and conducive to the public service, than the mode of giving and granting aids in Parliament, to be raised and paid in the said colonies." This makes the whole of the fundamental part of the plan. The conclu-

sion is irresistible. You cannot say that you were driven by any necessity to an exercise of the utmost rights of legislature. You cannot assert that you took on yourselves the task of imposing colony taxes, from the want of another legal body, that is competent to the purpose of supplying the exigencies of the state without wounding the prejudices of the people. Neither is it true that the body so qualified, and having that competence, had neglected the duty.

The question now, on all this accumulated matter, is—whether you will choose to abide by a profitable experience, or a mischievous theory; whether you choose to build on imagination or fact; whether you prefer enjoyment or hope—satisfaction—in your subjects or discontent?

If these propositions are accepted, everything which has been made to enforce a contrary system must I take it for granted, fall along with it. On that ground I have drawn the following resolution, which, when it comes to be moved, will naturally be divided in a proper manner: "That it may be proper to repeal an act, made in the seventh year of the reign of his present Majesty, entitled, An act for granting certain duties in the British colonies and plantations in America; for allowing a drawback of the duties of customs upon the exportation from this kingdom, of coffee and cocoanuts of the produce of the said colonies or plantations; for discontinuing the drawbacks payable on China earthenware exported to America, and for more effectually preventing the clandestine running of goods in the said colonies and plantations; and that it may be proper to repeal an act, made in the fourteenth year of the reign of his present Majesty, entitled, An act to discontinue, in such manner, and for such time as are therein mentioned, the landing and discharging, lading or shipping, of goods, wares, and merchandise, at the town and within the harbor of Boston, in the province of Massachusetts Bay, in North America; and that it may be proper to repeal an act, made in the fourteenth year of the reign of his present Majesty, entitled, An act for the impartial administration of justice in the cases of persons questioned for any acts done by them in the execution of the law, or for the suppression of riots and tumults in the province of Massachusetts Bay, in New England, and that it may be proper to repeal an act, made in the fourteenth year of the reign of his present Majesty, entitled, An act for the better regulating the government of the province of Massachusetts Bay, in New England; and also, that it may be proper to explain and amend an act, made in the thirty-fifth year of the reign of King Henry

the Eighth, entitled, An act for the trial of treasons committed out of the King's dominions."

I wish, Sir, to repeal the Boston Port Bill, because (independently of the dangerous precedent of suspending the rights of the subject during the King's pleasure) it was passed, as I apprehend, with less regularity, and on more partial principles, than it ought. The corporation of Boston was not heard before it was condemned. Other towns, fully as guilty as she was, have not had their ports blocked up. Even the restraining bill of the present session does not go to the length of the Boston Port Act. The same ideas of prudence which induced you not to extend equal punishment to equal guilt, even when you were punishing, induce me, who mean not to chastise, but to reconcile, to be satisfied with the punishment already partially inflicted.

Ideas of prudence, and accommodation to circumstances, prevent you from taking away the charters of Connecticut and Rhode Island, as you have taken away that of Massachusetts Colony, though the Crown has far less power in the two former provinces than it enjoyed in the latter; and though the abuses have been full as great and as flagrant in the exempted as in the punished. The same reasons of prudence and accommodation have weight with me in restoring the charter of Massachusetts Bay. Besides, Sir, the act which changes the charter of Massachusetts is in many particulars so exceptionable, that if I did not wish absolutely to repeal, I would by all means desire to alter it, as several of its provisions tend to the subversion of all public and private justice. Such, among others, is the power in the Governor to change the Sheriff at his pleasure, and to make a new returning officer for every special cause. It is shameful to behold such a regulation standing among English laws.

The act for bringing persons accused of committing murder under the orders of government to England for trial, is but temporary. That act has calculated the probable duration of our quarrel with the colonies, and is accommodated to that supposed duration. I would hasten the happy moment of reconciliation, and therefore must, on my principle, get rid of that most justly obnoxious act.

The act of Henry the Eighth, for the trial of treasons, I do not mean to take away, but to confine it to its proper bounds and original intention; to make it expressly for trial of treasons (and the greatest treasons may be committed) in places where the jurisdiction of the Crown does not extend.

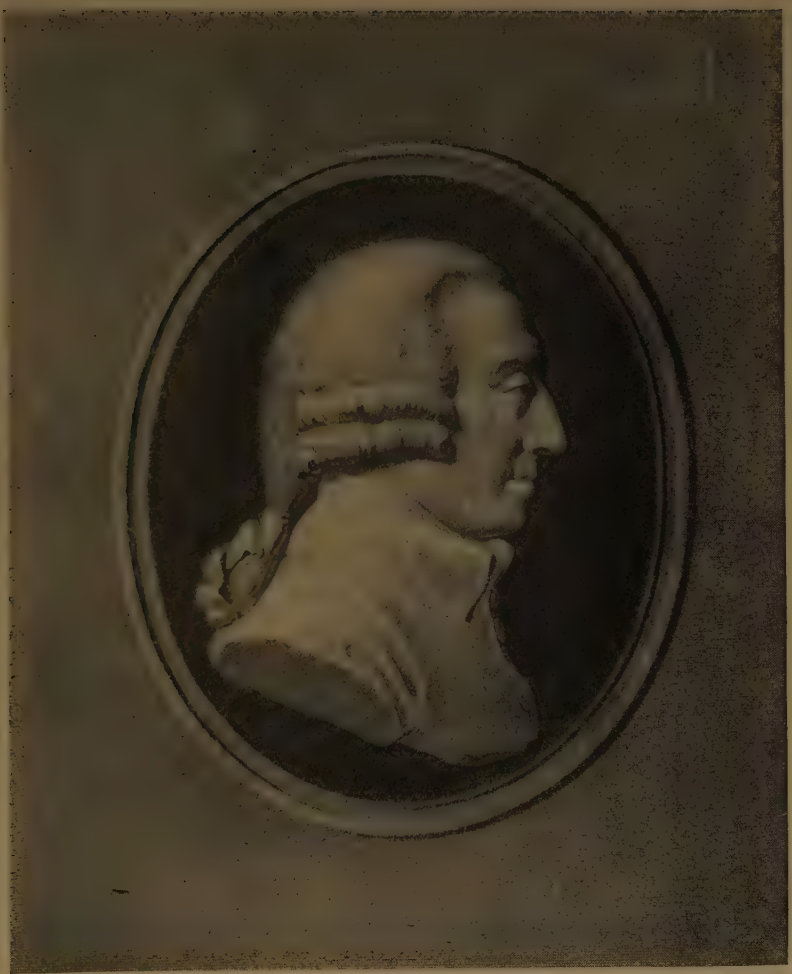
Having guarded the privileges of local legislature, I would next secure to the colonies a fair and unbiased judicature; for which purpose, Sir, I propose the following resolution: "That from the time when the General Assembly or General Court of any colony or plantation in North America, shall have appointed by act of assembly, duly confirmed, a settled salary to the offices of the Chief Justice and other judges of the Superior Court, it may be proper that the said Chief Justice and other judges of the Superior Courts of such colony, shall hold his and their office and offices during their good behavior; and shall not be removed therefrom, but when the said removal shall be adjudged by his Majesty in council, upon a hearing on complaint from the General Assembly, or on a complaint from the Governor, or Council, or the House of Representatives severally, of the colony in which the said Chief Justice and other judges have exercised the said offices."

The next resolution relates to the Courts of Admiralty.

It is this: "That it may be proper to regulate the Courts of Admiralty, or Vice Admiralty, authorized by the 15th chapter of the 4th of George the Third, in such a manner as to make the same more commodious to those who sue, or are sued, in the said courts, and to provide for the more decent maintenance of the judges in the same."

These courts I do not wish to take away. They are in themselves proper establishments. This court is one of the capital securities of the Act of Navigation. The extent of its jurisdiction, indeed, has been increased; but this is altogether as proper, and is, indeed, on many accounts more eligible, where new powers were wanted, than a court absolutely new. But courts incommodiously situated, in effect, deny justice; and a court, partaking in the fruits of its own condemnation, is a robber. The Congress complains, justly, of this grievance.

These are the three consequential propositions. I have thought of two or three more, but they come rather too near detail, and to the province of executive government, which I wish Parliament always to superintend, never to assume. If the first six are granted, congruity will carry the latter three. If not, the things that remain unrepealed will be, I hope, rather unseemly encumbrances on the building, than very materially detrimental to its strength and stability.



ADAM SMITH

THE COLONIES AND FREE TRADE

Such are the advantages which the colonies of America have derived from the policy of Europe.

What are those which Europe has derived from the discovery and colonization of America?

Those advantages may be divided, first, into the general advantages which Europe, considered as one great country, has derived from those great events; and, secondly, into the particular advantages which each colonizing country has derived from the colonies which particularly belong to it, in consequence of the authority or dominion which it exercises over them.

The general advantages which Europe, considered as one great country, has derived from the discovery and colonization of America, consist, first, in the increase of its enjoyments; and, secondly, in the augmentation of its industry.

The surplus produce of America, imported into Europe, furnishes the inhabitants of this great continent with a variety of commodities which they could not otherwise have possessed, some for conveniency and use, some for pleasure, and some for ornament, and thereby contributes to increase their enjoyments.

The discovery and colonization of America, it will readily be allowed, have contributed to augment the industry, first, of all the countries which trade to it directly, such as Spain, Portugal, France, and England; and, secondly, of all those which, without trading to it directly, send, through the medium of other countries, goods to it of their own produce; such as Austrian Flanders and some provinces of Germany, which, through the medium of the countries before mentioned, send to it a considerable quantity of linen and other goods. All such countries have evidently gained a more extensive market for their surplus produce, and must consequently have been encouraged to increase its quantity.

But that those great events should likewise have contributed to encourage the industry of countries such as Hungary and Poland, which may never, perhaps, have sent a single commodity of their own produce to America, is not, perhaps, altogether so evident. That those events have done so, however, cannot be doubted. Some part of the produce of America is consumed in Hungary and Poland, and there is some demand there for the sugar, chocolate, and tobacco of that new quarter of the world. But those commodities must be purchased with something which is either the produce of the industry of Hungary and Poland, or with something which had been purchased with some part of that produce. Those commodities of America are new values, new equivalents, introduced into Hungary and Poland, to be exchanged there for the surplus produce of those countries. By being carried thither they create a new and more extensive market for that surplus produce. They raise its value, and thereby contribute to encourage its increase. Though no part of it may ever be carried to America, it may be carried to other countries which purchase it with a part of their share of the surplus produce of America; and it may find a market by means of the circulation of that trade which was originally put into motion by the surplus produce of America.

Those great events may even have contributed to increase the enjoyments and to augment the industry of countries which not only never sent any commodities to America, but never received any from it. Even such countries may have received a greater abundance of other commodities from countries of which the surplus produce had been augmented by means of the American trade. This greater abundance, as it must necessarily have increased their enjoyments, so it must likewise have augmented their industry. A greater number of new equivalents of some kind or other must have been presented to them to be exchanged for the surplus produce of that industry. A more extensive market must have been created for that surplus produce, so as to raise its value, and thereby encourage its increase. The mass of commodities annually thrown into the great circle of European commerce, and by its various revolutions annually distributed among all the different nations comprehended within it, must have been augmented by the whole surplus produce of America. A greater share of this greater mass, therefore, is likely to have fallen to each of those nations, to have increased their enjoyments and augmented their industry.

The exclusive trade of the mother countries tends to diminish, or,

at least, to keep down below what they would otherwise rise to, both the enjoyments and industry of all those nations in general, and of the American colonies in particular. It is a dead weight upon the action of one of the great springs which puts into motion a great part of the business of mankind. By rendering the colony produce dearer in all other countries, it lessens consumption, and thereby cramps the industry of the colonies, and both the enjoyments and the industry of all other countries, which both enjoy less when they pay more for what they enjoy, and produce less when they get less for what they produce. By rendering the produce of all other countries dearer in the colonies, it cramps, in the same manner, the industry of all other countries, and both the enjoyments and the industry of the colonies. It is a clog which, for the supposed benefit of some particular countries, embarrasses the pleasures and encumbers the industry of all other countries; but of the colonies more than of any other. It not only excludes, as much as possible, all other countries from one particular market, but it confines, as much as possible, the colonies to one particular market; and the difference is very great between being excluded from one particular market, when all others are open, and being confined to one particular market, when all others are shut up. The surplus produce of the colonies, however, is the original source of all that increase of enjoyments and industry which Europe derives from the discovery and colonization of America; and the exclusive trade of the mother countries tends to render this source much less abundant than it otherwise would be.

The particular advantages which each colonizing country derives from the colonies which particularly belong to it, are of two different kinds: first, those common advantages which every empire derives from the provinces subject to its dominion; and, secondly, those peculiar advantages which are supposed to result from provinces of so very peculiar a nature as the European colonies of America.

The common advantages which every empire derives from the provinces subject to its dominion consist, first, in the military force which they furnish for its defense; and, secondly, in the revenue which they furnish for the support of its civil government. The Roman colonies furnished occasionally both one and the other. The Greek colonies sometimes furnished a military force; but seldom any revenue. They seldom acknowledged themselves subject to the dominion of the mother city. They were generally her allies in war, but very seldom her subjects in peace.

The European colonies of America have never yet furnished any military force for the defense of the mother country. Their military force has never yet been sufficient for their own defense; and in the different wars in which the mother countries have been engaged, the defense of their colonies has generally occasioned a very considerable distraction of the miltary force of those countries. In this respect, therefore, all the European colonies have, without exception, been a cause rather of weakness than of strength to their respective mother countries.

The colonies of Spain and Portugal only have contributed any revenue towards the defense of the mother country, or the support of her civil government. The taxes which have been levied upon those of other European nations, upon those of England in particular, have seldom been equal to the expense laid out upon them in time of peace, and never sufficient to defray that which they occasioned in time of war. Such colonies, therefore, have been a source of expense and not of revenue to their respective mother countries.

The advantages of such colonies to their respective mother countries consist altogether in those peculiar advantages which are supposed to result from provinces of so very peculiar a nature as the European colonies of America; and the exclusive trade, it is acknowledged, is the sole source of all those peculiar advantages.

In consequence of this exclusive trade, all that part of the surplus produce of the English colonies, for example, which consists in what are called enumerated commodities, can be sent to no other country but England. Other countries must afterwards buy it of her. It must be cheaper therefore in England than it can be in any other country, and must contribute more to increase the enjoyments of England than those of any other country. It must likewise contribute more to encourage her industry. For all those parts of her own surplus produce which England exchanges for those enumerated commodities, she must get a better price than any other countries can get for the like parts of theirs, when they exchange them for the same commodities. The manufactures of England, for example, will purchase a greater quantity of the sugar and tobacco of her own colonies than the like manufactures of other countries can purchase of that sugar and tobacco. So far, therefore, as the manufactures of England and those of other countries are both to be exchanged for the sugar and tobacco of the English colonies, this superiority of price gives an encouragement to the former, beyond what

the latter can in these circumstances enjoy. The exclusive trade of the colonies, therefore, as it diminishes, or at least keeps down below what they would otherwise rise to, both the enjoyments and the industry of the countries which do not possess it; so it gives an evident advantage to the countries which do possess it over those other countries.

This advantage, however, will, perhaps, be found to be rather what may be called a relative than an absolute advantage; and to give a superiority to the country which enjoys it, rather by depressing the industry and produce of other countries, than by raising those of that particular country above what they would naturally rise to in the case of free trade.

The tobacco of Maryland and Virginia, for example, by means of the monopoly which England enjoys of it, certainly comes cheaper to England than it can do to France, to whom England commonly sells a considerable part of it. But had France and all other European countries been at all times allowed a free trade to Maryland and Virginia, the tobacco of those colonies might, by this time, have come cheaper than it actually does, not only to all those other countries, but likewise to England. The produce of tobacco, in consequence of a market so much more extensive than any which it has hitherto enjoyed, might, and probably would by this time, have been so much increased as to reduce the profits of a tobacco plantation to their natural level with those of a corn plantation, which, it is supposed, they are still somewhat above. The price of tobacco might, and probably would by this time, have fallen somewhat lower than it is at present. An equal quantity of the commodities either of England, or of those of other countries, might have purchased in Maryland and Virginia a greater quantity of tobacco than it can do at present, and consequently have been sold there for a much better price. So far as that weed, therefore, can, by its cheapness and abundance, increase the enjoyments or augment the industry either of England or of any other country, it would probably, in the case of a free trade, have produced both these effects in somewhat a greater degree than it can do at present. England, indeed, would not in this case have had any advantage over other countries. She might have bought the tobacco of her colonies somewhat cheaper, and consequently have sold some of her own commodities somewhat dearer than she actually does. But she could neither have bought the one cheaper nor sold the other dearer, than any other country might have done. She might perhaps have gained an absolute, but she would certainly have lost a relative advantage.

In order, however, to obtain this relative advantage in the colony

trade, in order to execute the invidious and malignant project of excluding as much as possible other nations from any share in it, England, there are very probable reasons for believing, has not only sacrificed a part of the absolute advantage which she, as well as every other nation, might have derived from that trade, but has subjected herself both to an absolute and to a relative disadvantage in almost every other branch of trade.

When, by the Act of Navigation, England assumed to herself the monopoly of the colony trade, the foreign capitals which had before been employed in it were necessarily withdrawn from it. The English capital, which had before carried on but a part of it, was now to carry on the whole. The capital which had before supplied the colonies with but a part of the goods which they wanted from Europe, was now all that was employed to supply them with the whole. But it could not supply them with the whole, and the goods with which it did supply them were necessarily sold very dear. The capital which had before bought but a part of the surplus produce of the colonies, was now all that was employed to supply the whole. But it could not buy the whole at anything near the old price, and, therefore, whatever it did buy it necessarily bought very cheap. But in an employment of capital in which the merchant sold very dear and bought very cheap, the profit must have been very great, and much above the ordinary level of profit in other branches of trade. This superiority of profit in the colony trade could not fail to draw from other branches of trade a part of the capital which had before been employed in them. But this revulsion of capital, as it must have gradually increased the competition of capitals in the colony trade, so it must have gradually diminished that competition in all those other branches of trade; as it must have gradually lowered the profits of the one, so it must have gradually raised those of the other, till the profits of all came to a new level, different from and somewhat higher than that at which they had been before.

This double effect, of drawing capital from all other trades, and of raising the rate of profit somewhat higher than it otherwise would have been in all trades, was not only produced by this monopoly upon its first establishment, but has continued to be produced by it ever since.

First, this monopoly has been continually drawing capital from all other trades to be employed in that of the colonies.

Though the wealth of Great Britain has increased very much since the establishment of the Act of Navigation, it certainly has not increased

in the same proportion as that of the colonies. But the foreign trade of every country naturally increases in proportion to its wealth, its surplus produce in proportion to its whole produce; and Great Britain having engrossed to herself almost the whole of what may be called the foreign trade of the colonies, and her capital not having increased in the same proportion as the extent of that trade, she could not carry it on without continually withdrawing from other branches of trade some part of the capital which had before been employed in them, as well as withholding from them a great deal more which would otherwise have gone to them. Since the establishment of the Act of Navigation, accordingly, the colony trade has been continually increasing, while many other branches of foreign trade, particularly of that to other parts of Europe, have been continually decaying. Our manufactures for foreign sale, instead of being suited, as before the Act of Navigation, to the neighbouring market of Europe, or to the more distant one of the countries which lie round the Mediterranean Sea, have, the greater part of them, been accommodated to the still more distant one of the colonies, to the market in which they have the monopoly, rather than to that in which they have many competitors. The causes of decay in other branches of foreign trade, which, by Sir Matthew Decker and other writers, have been sought for in the excess and improper mode of taxation, in the high price of labour, in the increase of luxury, etc., may all be found in the overgrowth of the colony trade. The mercantile capital of Great Britain, though very great, yet not being infinite, and though greatly increased since the Act of Navigation, yet not being increased in the same proportion as the colony trade, that trade could not possibly be carried on without drawing some part of that capital from other branches of trade, nor consequently without some decay of those other branches.

England, it must be observed, was a great trading country, her mercantile capital was very great and likely to become still greater and greater every day, not only before the Act of Navigation had established the monopoly of the colony trade, but before that trade was very considerable. In the Dutch war, during the government of Cromwell, her navy was superior to that of Holland; and in that which broke out in the beginning of the reign of Charles II. it was at least equal, perhaps superior, to the united navies of France and Holland. Its superiority, perhaps, would scarce appear greater in the present times; at least, if the Dutch navy was to bear the same proportion to the Dutch commerce now which it did then. But this great naval power could not, in either of

those wars, be owing to the Act of Navigation. During the first of them, the plan of that Act had been but just formed; and though before the breaking out of the second it had been fully enacted by legal authority, yet no part of it could have had time to produce any considerable effect, and least of all that part which established the exclusive trade to the colonies. Both the colonies and their trade were inconsiderable then in comparison of what they are now. The island of Jamaica was an unwholesome desert, little inhabited, and less cultivated. New York and New Jersey were in the possession of the Dutch; the half of St. Christopher's in that of the French. The island of Antigua, the two Carolinas, Pennsylvania, Georgia, and Nova Scotia, were not planted. Virginia, Maryland, and New England were planted; and though they were very thriving colonies, yet there was not, perhaps, at that time either in Europe or America, a single person who foresaw or even suspected the rapid progress which they have since made in wealth, population, and improvement. The island of Barbadoes, in short, was the only British colony of any consequence of which the condition at that time bore any resemblance to what it is at present. The trade of the colonies, of which England, even for some time after the Act of Navigation, enjoyed but a part (for the Act of Navigation was not very strictly executed till several years after it was enacted), could not at that time be the cause of the great trade of England, nor of the great naval power which was supported by that trade. The trade which at that time supported that great naval power was the trade of Europe, and of the countries which lie round the Mediterranean Sea. But the share which Great Britain at present enjoys of that trade could not support any such great naval power. Had the growing trade of the colonies been left free to all nations, whatever share of it might have fallen to Great Britain (and a very considerable share would probably have fallen to her) must have been all an addition to this great trade of which she was before in possession. In consequence of the monopoly, the increase of the colony trade has not so much occasioned an addition to the trade which Great Britain had before, as a total change in its direction.

Secondly, this monopoly has necessarily contributed to keep up the rate of profit in all the different branches of British trade higher than it naturally would have been had all nations been allowed a free trade to the British colonies.

The monopoly of the colony trade, as it necessarily drew towards that trade a greater proportion of the capital of Great Britain than what

would have gone to it of its own accord; so by the expulsion of all foreign capitals it necessarily reduced the whole quantity of capital employed in that trade below what it naturally would have been in the case of a free trade. But by lessening the competition of capitals in that branch of trade, it necessarily raised the rate of profit in that branch. By lessening, too, the competition of British capitals in all other branches of trade, it necessarily raised the rate of British profit in all those other branches. Whatever may have been, at any particular period, since the establishment of the Act of Navigation, the state or extent of the mercantile capital of Great Britain, the monopoly of the colony trade must, during the continuance of that state, have raised the ordinary rate of British profit higher than it otherwise would have been both in that and in all the other branches of British trade. If, since the establishment of the Act of Navigation, the ordinary rate of British profit has fallen considerably, as it certainly has, it must have fallen still lower, had not the monopoly established by that Act contributed to keep it up.

But whatever raises in any country the ordinary rate of profit higher than it otherwise would be, necessarily subjects that country both to an absolute and to a relative disadvantage in every branch of trade of which she has not the monopoly.

It subjects her to an absolute disadvantage; because in such branches of trade her merchants cannot get this greater profit without selling dearer than they otherwise would do both the goods of foreign countries which they import into their own, and the goods of their own country which they export to foreign countries. Their own country must both buy dearer and sell dearer; must both buy less and sell less; must both enjoy less and produce less, than she otherwise would do.

It subjects her to a relative disadvantage; because in such branches of trade it sets other countries which are not subject to the same absolute disadvantage, either more above her or less below her than they otherwise would be. It enables them both to enjoy more and to produce more in proportion to what she enjoys and produces. It renders their superiority greater or their inferiority less than it otherwise would be. By raising the price of her produce above what it otherwise would be, it enables the merchants of other countries to undersell her in foreign markets, and thereby to jostle her out of almost all those branches of trade of which she has not the monopoly.

Our merchants frequently complain of the high wages of British labour as the cause of their manufactures being undersold in foreign

markets; but they are silent about the high profits of stock. They complain of the extravagant gain of other people; but they say nothing of their own. The high profits of British stock, however, may contribute towards raising the price of British manufactures in many cases as much, and in some perhaps more, than the high wages of British labour.

It is in this manner that the capital of Great Britain, one may justly say, has partly been drawn and partly been driven from the greater part of the different branches of trade of which she has not the monopoly; from the trade of Europe in particular, and from that of the countries which lie round the Mediterranean Sea.

It has partly been drawn from those branches of trade; by the attraction of superior profit in the colony trade in consequence of the continual increase of that trade, and of the continual insufficiency of the capital which had carried it on one year to carry it on the next.

It has partly been driven from them; by the advantage which the high rate of profit, established in Great Britain, gives to other countries, in all the different branches of trade of which Great Britain has not the monopoly.

As the monopoly of the colony trade has drawn from those other branches a part of the British capital which would otherwise have been employed in them, so it has forced into them many foreign capitals which would never have gone to them, had they not been expelled from the colony trade. In those other branches of trade it has diminished the competition of British capitals, and thereby raised the rate of British profit higher than it otherwise would have been. On the contrary, it has increased the competition of foreign capitals, and thereby sunk the rate of foreign profit lower than it otherwise would have been. Both in the one way and in the other it must evidently have subjected Great Britain to a relative disadvantage in all those other branches of trade.

The colony trade, however, it may perhaps be said, is more advantageous to Great Britain than any other; and the monopoly, by forcing into that trade a greater proportion of the capital of Great Britain than what would otherwise have gone to it, has turned that capital into an employment more advantageous to the country than any other which it could have found.

The most advantageous employment of any capital to the country to which it belongs, is that which maintains there the greatest quantity of productive labour, and increases the most the annual produce of the land and labour of that country. But the quantity of productive labour

which any capital employed in the foreign trade of consumption can maintain, is exactly in proportion, it has been shown in the Second Book, to the frequency of its returns. A capital of a thousand pounds, for example, employed in a foreign trade of consumption, of which the returns are made regularly once in the year, can keep in constant employment, in the country to which it belongs, a quantity of productive labour equal to what a thousand pounds can maintain there for a year. If the returns are made twice or thrice in the year, it can keep in constant employment a quantity of productive labour equal to what two or three thousand pounds can maintain there for a year. A foreign trade of consumption carried on with a neighbouring, is upon this account, in general, more advantageous than one carried on with a distant country; and for the same reason a direct foreign trade of consumption, as it has likewise been shown in the Second Book, is in general more advantageous than a roundabout one.

But the monopoly of the colony trade, so far as it has operated upon the employment of the capital of Great Britain, has in all cases forced some part of it from a foreign trade of consumption carried on with a neighbouring, to one carried on with a more distant country, and in many cases from a direct foreign trade of consumption to a roundabout one.

First, the monopoly of the colony trade has in all cases forced some part of the capital of Great Britain from a foreign trade of consumption carried on with a neighbouring, to one carried on with a more distant country.

It has in all cases forced some part of that capital from the trade with Europe, and with the countries which lie round the Mediterranean Sea, to that with the more distant regions of America and the West Indies, from which the returns are necessarily less frequent, not only on account of the greater distance, but on account of the peculiar circumstances of those countries. New colonies, it has already been observed, are always understocked. Their capital is always much less than what they could employ with great profit and advantage in the improvement and cultivation of their land. They have a constant demand, therefore, for more capital than they have of their own; and in order to supply the deficiency of their own, they endeavour to borrow as much they can of the mother country, to whom they are, therefore, always in debt. The most common way in which the colonists contract this debt is not by borrowing upon bond of the rich people of the mother country, though

they sometimes do this, too, but by running as much in arrear to their correspondents, who supply them with goods from Europe, as those correspondents will allow them. Their annual returns frequently do not amount to more than a third, and sometimes not to so great a proportion of what they owe. The whole capital, therefore, which their correspondents advance to them is seldom returned to Britain in less than three, and sometimes not in less than four or five years. But a British capital of a thousand pounds, for example, which is returned to Great Britain only once in five years, can keep in constant employment only one-fifth part of the British industry which it could maintain if the whole was returned once in the year; and instead of the quantity of industry which a thousand pounds could maintain for a year, can keep in constant employment the quantity only which two hundred pounds can maintain for a year. The planter, no doubt, by the high price which he pays for the goods from Europe, by the interest upon the bills which he grants at distant dates, and by the commission upon the renewal of those which he grants at near dates, makes up, and probably more than makes up, all the loss which his correspondent can sustain by this delay. But though he may make up the loss of his correspondent, he cannot make up that of Great Britain. In a trade of which the returns are very distant, the profit of the merchant may be as great or greater than in one in which they are very frequent and near; but the advantage of the country in which he resides, the quantity of productive labour constantly maintained there, the annual produce of the land and labour, must always be much less. That the returns of the trade to America, and still more those of that to the West Indies, are in general not only more distant, but more irregular, and more uncertain, too, than those of the trade to any part of Europe, or even of the countries which lie round the Mediterranean Sea, will readily be allowed, I imagine, by everybody who has had any experience of those different branches of trade.

Secondly, the monopoly of the colony trade has, in many cases, forced some part of the capital of Great Britain from a direct foreign trade of consumption into a roundabout one.

Among the enumerated commodities which can be sent to no other market but Great Britain, there are several of which the quantity very much exceeds the consumption of Great Britain, and of which a part, therefore, must be exported to other countries. But this cannot be done without forcing some part of the capital of Great Britain into a roundabout foreign trade of consumption. Maryland and Virginia, for exam-

ple, send annually to Great Britain upwards of ninety-six thousand hogsheads of tobacco, and the consumption of Great Britain is said not to exceed fourteen thousand. Upwards of eighty-two thousand hogsheads, therefore, must be exported to other countries, to France, to Holland, and to the countries which lie round the Baltic and Mediterranean Seas. But that part of the capital of Great Britain which brings those eighty-two thousand hogsheads to Great Britain, which re-exports them from thence to those other countries, and which brings back from those other countries to Great Britain either goods or money in return, is employed in a roundabout foreign trade of consumption, and is necessarily forced into this employment in order to dispose of this great surplus. If we would compute in how many years the whole of this capital is likely to come back to Great Britain, we must add to the distance of the American returns that of the returns from those other countries. If, in the direct foreign trade of consumption which we carry on with America, the whole capital employed frequently does not come back in less than three or four years; the whole capital employed in this roundabout one is not likely to come back in less than four or five. If the one can keep in constant employment but a third or a fourth part of the domestic industry which could be maintained by a capital returned once in the year, the other can keep in constant employment but a fourth or fifth part of that industry. At some of the outports a credit is commonly given to those foreign correspondents to whom they export their tobacco. At the port of London, indeed, it is commonly sold for ready money. The rule is, weigh and pay. At the port of London, therefore, the final returns of the whole roundabout trade are more distant than the returns from America by the time only which the goods may lie unsold in the warehouse; where, however, they may sometimes lie long enough. But, had not the colonies been confined to the market of Great Britain for the sale of their tobacco, very little more of it would probably have come to us than what was necessary for the home consumption. The goods which Great Britain purchases at present for her own consumption with the great surplus of tobacco which she exports to other countries, she would in this case probably have purchased with the immediate produce of her own industry, or with some part of her own manufactures. That produce, those manufactures, instead of being almost entirely suited to one great market, as at present, would probably have been fitted to a great number of smaller markets. Instead of one great roundabout foreign trade of consumption, Great Britain would probably have carried on a

great number of small direct trades of the same kind. On account of the frequency of the returns, a part, and probably but a small part, perhaps not above a third or a fourth of the capital which at present carries on this great roundabout trade, might have been sufficient to carry on all those small direct ones, might have kept in constant employment an equal quantity of British industry, and have equally supported the annual produce of the land and labour of Great Britain. All the purposes of this trade being in this manner answered by a much smaller capital, there would have been a large spare capital to apply to other purposes; to improve the lands, to increase the manufactures, and to extend the commerce of Great Britain; to come into competition at least with the other British capitals employed in all those different ways, to reduce the rate of profit in them all, and thereby to give to Great Britain, in all of them, a superiority over other countries still greater than what she at present enjoys.

The monopoly of the colony trade, too, has forced some part of the capital of Great Britain from all foreign trade of consumption to a carrying trade; and consequently from supporting more or less the industry of Great Britain, to be employed altogether in supporting partly that of the colonies and partly that of some other countries.

The goods, for example, which are annually purchased with the great surplus of eighty-two thousand hogsheads of tobacco annually re-exported from Great Britain, are not all consumed in Great Britain. Part of them, linen from Germany and Holland, for example, is returned to the colonies for their particular consumption. But that part of the capital of Great Britain which buys the tobacco with which this linen is afterwards bought, is necessarily withdrawn from supporting the industry of Great Britain, to be employed altogether in supporting, partly that of the colonies and partly that of the particular countries who pay for this tobacco with the produce of their own industry.

The monopoly of the colony trade besides, by forcing towards it a much greater proportion of the capital of Great Britain than what would naturally have gone to it, seems to have broken altogether that natural balance which would otherwise have taken place among all the different branches of British industry. The industry of Great Britain, instead of being accommodated to a great number of small markets, has been principally suited to one great market. Her commerce, instead of running in a great number of small channels, has been taught to run principally in one great channel. But the whole system of her industry and com-

merce has thereby been rendered less secure; the whole state of her body politic less healthful than it otherwise would have been. In her present condition, Great Britain resembles one of those unwholesome bodies in which some of the vital parts are overgrown, and which, upon that account, are liable to many dangerous disorders scarce incident to those in which all the parts are more properly proportioned. A small stop in that great blood vessel, which has been artificially swelled beyond its natural dimensions, and through which an unnatural proportion of the industry and commerce of the country has been forced to circulate, is very likely to bring on the most dangerous disorders upon the whole body politic. The expectation of a rupture with the colonies, accordingly, has struck the people of Great Britain with more terror than they ever felt for a Spanish armada or a French invasion. It was this terror, whether well or ill grounded, which rendered the repeal of the Stamp Act, among the merchants at least, a popular measure. In the total exclusion from the colony market, was it to last only for a few years, the greater part of our merchants used to fancy that they foresaw an entire stop to their trade; the greater part of our master manufacturers, the entire ruin of their business; and the greater part of our workmen, an end to their employment. A rupture with any of our neighbours upon the continent, though likely, too, to occasion some stop or interruption in the employments of some of all these different orders of people, is foreseen, however, without such general emotion. The blood, of which the circulation is stopped in some of the smaller vessels, easily disgorges itself into the greater, without occasioning any dangerous disorder; but when it is stopped in any of the greater vessels, convulsions, apoplexy, or death, are the immediate and unavoidable consequences. If but one of those overgrown manufactures, which by means either of bounties, or of the monopoly of the home and colony markets, have been artificially raised up to an unnatural height, finds some small stop or interruption in its employment, it frequently occasions a mutiny and disorder alarming to Government, and embarrassing even to the deliberations of the Legislature. How great, therefore, would be the disorder and confusion, it was thought, which must necessarily be occasioned by a sudden and entire stop in the employment of so great a proportion of our principal manufacturers!

Some moderate and gradual relaxation of the laws which give to Great Britain the exclusive trade to the colonies, till it is rendered in a great measure free, seems to be the only expedient which can in all fu-

ture times deliver her from this danger, which can enable her or even force her to withdraw some part of her capital from this overgrown employment, and to turn it, though with less profit, towards other employments; and which, by gradually diminishing one branch of her industry and gradually increasing all the rest, can by degrees restore all the different branches of it to that natural, healthful, and proper proportion which perfect liberty necessarily establishes, and which perfect liberty can alone preserve. To open the colony trade all at once to all nations, might not only occasion some transitory inconveniency, but a great permanent loss to the greater part of those whose industry or capital is at present engaged in it. The sudden loss of the employment even of the ships which import the eighty-two thousand hogsheads of tobacco, which are over and above the consumption of Great Britain, might alone be felt very sensibly. Such are the unfortunate effects of all the regulations of the mercantile system! They not only introduce very dangerous disorders into the state of the body politic, but disorders which it is often difficult to remedy, without occasioning, for a time at least, still greater disorders. In what manner, therefore, the colony trade ought gradually to be opened; what are the restraints which ought first, and what are those which ought last to be taken away; or in what manner the natural system of perfect liberty and justice ought gradually to be restored, we must leave to the wisdom of future statesmen and legislators to determine.

Five different events, unforeseen and unthought of, have very fortunately concurred to hinder Great Britain from feeling, so sensibly as it was generally expected she would, the total exclusion which has now taken place for more than a year (from the first of December, 1774,) from a very important branch of the colony trade, that of the twelve associated provinces of North America. First, those colonies, in preparing themselves for their non-importation agreement, drained Great Britain completely of all the commodities which were fit for their market: secondly, the extraordinary demand of the Spanish Flota has, this year, drained Germany and the North of many commodities, linen in particular, which used to come into competition, even in the British market, with the manufactures of Great Britain: thirdly, the peace between Russia and Turkey has occasioned an extraordinary demand from the Turkey market, which, during the distress of the country, and while a Russian fleet was cruising in the Archipelago, had been very poorly supplied: fourthly, the demand of the north of Europe for the

manufactures of Great Britain has been increasing from year to year for some time past: and fifthly, the late partition and consequential pacification of Poland, by opening the market of that great country, have this year added an extraordinary demand from thence to the increasing demand of the North. These events are all, except the fourth, in their nature transitory and accidental, and the exclusion from so important a branch of the colony trade, if unfortunately it should continue much longer, may still occasion some degree of distress. This distress, however, as it will come on gradually, will be felt much less severely than if it had come on all at once; and in the meantime the industry and capital of the country may find a new employment and direction, so as to prevent this distress from ever arising to any considerable height.

The monopoly of the colony trade, therefore, so far as it has turned towards that trade a greater proportion of the capital of Great Britain than what would otherwise have gone to it, has in all cases turned it from a foreign trade of consumption with a neighbouring, into one with a more distant country; in many cases, from a direct foreign trade of consumption into a roundabout one; and in some cases, from all foreign trade of consumption into a carrying trade. It has in all cases, therefore, turned it from a direction in which it would have maintained a greater quantity of productive labour, into one in which it can maintain a much smaller quantity. By suiting, besides, to one particular market only, so great a part of the industry and commerce of Great Britain, it has rendered the whole state of that industry and commerce more precarious and less secure than if their produce had been accommodated to a greater variety of markets.

We must carefully distinguish between the effects of the colony trade and those of the monopoly of that trade. The former are always and necessarily beneficial; the latter are always and necessarily hurtful. But the former are so beneficial that the colony trade, though subject to a monopoly, and notwithstanding the hurtful effects of that monopoly, is still upon the whole beneficial, and greatly beneficial; though a good deal less so than it otherwise would be.

The effect of the colony trade in its natural and free state, is to open a great though distant market for such parts of the produce of British industry as may exceed the demand of the markets nearer home, of those of Europe, and of the countries which lie round the Mediterranean Sea. In its natural and free state, the colony trade, without drawing from those markets any part of the produce which had ever been sent to them,

encourages Great Britain to increase the surplus continually, by continually presenting new equivalents to be exchanged for it. In its natural and free state, the colony trade tends to increase the quantity of productive labour in Great Britain, but without altering in any respect the direction of that which had been employed there before. In the natural and free state of the colony trade, the competition of all other nations would hinder the rate of profit from rising above the common level either in the new market or in the new employment. The new market, without drawing anything from the old one, would create, if one may say so, a new produce for its own supply; and that new produce would constitute a new capital for carrying on the new employment, which in the same manner would draw nothing from the old one.

The monopoly of the colony trade, on the contrary, by excluding the competition of other nations and thereby raising the rate of profit both in the new market and in the new employment, draws produce from the old market and capital from the old employment. To augment our share of the colony trade beyond what it otherwise would be, is the avowed purpose of the monopoly. If our share of that trade were to be no greater with than it would have been without the monopoly, there could have been no reason for establishing the monopoly. But whatever forces into a branch of trade of which the returns are slower and more distant than those of the greater part of other trades, a greater proportion of the capital of any country than what of its own accord would go to that branch, necessarily renders the whole quantity of productive labour annually maintained there, the whole annual produce of the land and labour of that country, less than they otherwise would be. It keeps down the revenue of the inhabitants of that country below what it would naturally rise to, and thereby diminishes their power of accumulation. It not only hinders, at all times, their capital from maintaining so great a quantity of productive labour as it would otherwise maintain, but it hinders it from increasing so fast as it would otherwise increase, and consequently from maintaining a still greater quantity of productive labour.

The natural good effects of the colony trade, however, more than counterbalance to Great Britain the bad effects of the monopoly, so that, monopoly and all together, that trade, even as it is carried on at present, is not only advantageous, but greatly advantageous. The new market and the new employment which are opened by the colony trade are of much greater extent than that portion of the old market and of the old

employment which is lost by the monopoly. The new produce and the new capital which has been created, if one may say so, by the colony trade, maintain in Great Britain a greater quantity of productive labour than what can have been thrown out of employment by the revulsion of capital from other trades of which the returns are more frequent. If the colony trade, however, even as it is carried on at present, is advantageous to Great Britain, it is not by means of the monopoly, but in spite of the monopoly.

It is rather for the manufactured than for the rude produce of Europe that the colony trade opens a new market. Agriculture is the proper business of all new colonies; a business which the cheapness of land renders more advantageous than any other. They abound, therefore, in the rude produce of land, and instead of importing it from other countries, they have generally a large surplus to export. In new colonies agriculture either draws hands from all other employments, or keeps them from going to any other employment. There are few hands to spare for the necessary, and none for the ornamental manufactures. The greater part of the manufactures of both kinds, they find it cheaper to purchase of other countries than to make for themselves. It is chiefly by encouraging the manufactures of Europe than the colony trade indirectly encourages its agriculture. The manufacturers of Europe, to whom that trade gives employment, constitute a new market for the produce of the land; and the most advantageous of all markets—the home market for the corn and cattle, for the bread and butchers' meat of Europe—is thus greatly extended by means of the trade to America.

But that the monopoly of the trade of populous and thriving colonies is not alone sufficient to establish, or even to maintain manufactures in any country, the examples of Spain and Portugal sufficiently demonstrate. Spain and Portugal were manufacturing countries before they had any considerable colonies. Since they had the richest and most fertile in the world, they have both ceased to be so.

In Spain and Portugal the bad effects of the monopoly, aggravated by other causes, have, perhaps, nearly overbalanced the natural good effects of the colony trade. These causes seem to be other monopolies of different kinds; the degradation of the value of gold and silver below what it is in most other countries; the exclusion from foreign markets by improper taxes upon exportation, and the narrowing of the home market by still more improper taxes upon the transportation of goods from one part of the country to another; but above all, that irregular and

partial administration of justice which often protects the rich and powerful debtor from the pursuit of his injured creditor, and which makes the industrious part of the nation afraid to prepare goods for the consumption of those haughty and great men, to whom they dare not refuse to sell upon credit, and from whom they are altogether uncertain of repayment.

In England, on the contrary, the natural good effects of the colony trade, assisted by other causes, have in a great measure conquered the bad effects of the monopoly. These causes seem to be the general liberty of trade, which, notwithstanding some restraints, is at least equal, perhaps superior, to what it is in any other country; the liberty of exporting, duty free, almost all sorts of goods which are the produce of domestic industry, to almost any foreign country; and what, perhaps, is of still greater importance, the unbounded liberty of transporting them from any one part of our own country to another without being obliged to give any account to any public office, without being liable to question or examination of any kind; but above all, that equal and impartial administration of justice which renders the rights of the meanest British subject respectable to the greatest, and which, by securing to every man the fruits of his own industry, gives the greatest and most effectual encouragement to every sort of industry.

If the manufactures of Great Britain, however, have been advanced, as they certainly have, by the colony trade, it has not been by means of the monopoly of that trade, but in spite of the monopoly. The effect of the monopoly has been, not to augment the quantity, but to alter the quality and shape of a part of the manufactures of Great Britain, and to accommodate to a market, from which the returns are slow and distant, what would otherwise have been accommodated to one from which the returns are frequent and near. Its effect has consequently been to turn a part of the capital of Great Britain from an employment in which it would have maintained a greater quantity of manufacturing industry, to one in which it maintains a much smaller, and thereby to diminish, instead of increasing, the whole quantity of manufacturing industry maintained in Great Britain.

The monopoly of the colony trade, therefore, like all the other mean and malignant expedients of the mercantile system, depresses the industry of all other countries, but chiefly that of the colonies, without in the least increasing, but on the contrary diminishing, that of the country in whose favour it is established.

The monopoly hinders the capital of that country, whatever may at any particular time be the extent of that capital, from maintaining so great a quantity of productive labour as it would otherwise maintain, and from affording so great a revenue to the industrious inhabitants as it would otherwise afford. But as capital can be increased only by savings from revenue, the monopoly, by hindering it from affording so great a revenue as it would otherwise afford, necessarily hinders it from increasing so fast as it would otherwise increase, and consequently from maintaining a still greater quantity of productive labour, and affording a still greater revenue to the industrious inhabitants of that country. One great original source of revenue, therefore, the wages of labour, the monopoly must necessarily have rendered at all times less abundant than it otherwise would have been.

By raising the rate of mercantile profit, the monopoly discourages the improvement of land. The profit of improvement depends upon the difference between what the land actually produces and what, by the application of a certain capital, it can be made to produce. If this difference affords a greater profit than what can be drawn from an equal capital in any mercantile employment, the improvement of land will draw capital from all mercantile employments. If the profit is less, mercantile employments will draw capital from the improvement of land. Whatever therefore raises the rate of mercantile profit, either lessens the superiority or increases the inferiority of the profit of improvement; and in the one case hinders capital from going to improvement, and in the other draws capital from it. But by discouraging improvement, the monopoly necessarily retards the natural increase of another great original source of revenue, the rent of land. By raising the rate of profit, too, the monopoly necessarily keeps up the market rate of interest higher than it otherwise would be. But the price of land in proportion to the rent which it affords, the number of years' purchase which is commonly paid for it, necessarily falls as the rate of interest rises, and rises as the rate of interest falls. The monopoly, therefore, hurts the interest of the landlord two different ways, by retarding the natural increase, first, of his rent, and secondly, of the price which he would get for his land in proportion to the rent which it affords.

The monopoly, indeed, raises the rate of mercantile profit, and thereby augments somewhat the gain of our merchants. But as it obstructs the natural increase of capital, it tends rather to diminish than to increase the sum total of the revenue which the inhabitants of the

country derive from the profits of stock; a small profit upon a great capital generally affording a greater revenue than a great profit upon a small one. The monopoly raises the rate of profit, but it hinders the sum of profit from rising so high as it otherwise would do.

All the original sources of revenue, the wages of labour, the rent of land, and the profits of stock, the monopoly renders much less abundant than they otherwise would be. To promote the little interest of one little order of men in one country, it hurts the interest of all other orders of men in that country, and of all men in all other countries.

It is solely by raising the ordinary rate of profit that the monopoly either has proved or could prove advantageous to any one particular order of men. But besides all the bad effects to the country in general, which have already been mentioned as necessarily resulting from a high rate of profit, there is one more fatal, perhaps, than all these put together, but which, if we may judge from experience, is inseparably connected with it. The high rate of profit seems everywhere to destroy that parsimony which in other circumstances is natural to the character of the merchant. When profits are high, that sober virtue seems to be superfluous, and expensive luxury to suit better the affluence of his situation. But the owners of the great mercantile capitals are necessarily the leaders and conductors of the whole industry of every nation, and their example has a much greater influence upon the manners of the whole industrious part of it than that of any other order of men. If his employer is attentive and parsimonious, the workman is very likely to be so, too; but if the master is dissolute and disorderly, the servant, who shapes his work according to the pattern which his master prescribes to him, will shape his life, too, according to the example which he sets him. Accumulation is thus prevented in the hands of all those who are naturally the most disposed to accumulate; and the funds destined for the maintenance of productive labour receive no augmentation from the revenue of those who ought naturally to augment them the most. The capital of the country, instead of increasing, gradually dwindles away, and the quantity of productive labour maintained in it grows every day less and less. Have the exorbitant profits of the merchants of Cadiz and Lisbon augmented the capital of Spain and Portugal? Have they alleviated the poverty, have they promoted the industry of those two beggarly countries? Such has been the tone of mercantile expense in those two trading cities that those exorbitant profits, far from augmenting the general capital of the country, seem scarce to have been sufficient to keep

up the capitals upon which they are made. Foreign capitals are every day intruding themselves, if I may say so, more and more into the trade of Cadiz and Lisbon. It is to expel those foreign capitals from a trade which their own grows every day more and more insufficient to carry on, that the Spaniards and Portuguese endeavour every day to straiten more and more the galling bands of their absurd monopoly. Compare the mercantile manners of Cadiz and Lisbon with those of Amsterdam, and you will be sensible how differently the conduct and character of the merchants are affected by the high and by the low profits of stock. The merchants of London, indeed, have not yet generally become such magnificent lords as those of Cadiz and Lisbon; but neither are they in general such attentive and parsimonious burghers as those of Amsterdam. They are supposed, however, many of them, to be a good deal richer than the greater part of the former, and not quite so rich as many of the latter. But the rate of their profit is commonly much lower than that of the former, and a good deal higher than that of the latter. "Light come, light go," says the proverb; and the ordinary tone of expense seems everywhere to be regulated, not so much according to the real ability of spending, as to the supposed facility of getting money to spend.

It is thus that the single advantage which the monopoly procures to a single order of men is in many different ways hurtful to the general interest of the country.

To found a great empire for the sole purpose of raising up a people of customers, may at first sight appear a project fit only for a nation of shopkeepers. It is, however, a project altogether unfit for a nation of shopkeepers, but extremely fit for a nation whose government is influenced by shopkeepers. Such statesmen, and such statesmen only, are capable of fancying that they will find some advantage in employing the blood and treasure of their fellow-citizens to found and maintain such an empire. Say to a shopkeeper, "Buy me a good estate, and I shall always buy my clothes at your shop, even though I should pay somewhat dearer than what I can have them for at other shops"; and you will not find him very forward to embrace your proposal. But should any other person buy you such an estate, the shopkeeper would be much obliged to your benefactor if he would enjoin you to buy all your clothes at his shop. England purchased for some of her subjects, who found themselves uneasy at home, a great estate in a distant country. The price, indeed, was very small, and instead of thirty years' purchase, the ordinary price of land in the present times, it amounted to little more

than the expense of the different equipments which made the first discovery, reconnoitered the coast, and took a fictitious possession of the country. The land was good and of great extent, and the cultivators having plenty of good ground to work upon, and being for some time at liberty to sell their produce where they pleased, became in the course of a little more than thirty or forty years (between 1620 and 1660) so numerous and thriving a people, that the shopkeepers and other traders of England wished to secure to themselves the monopoly of their custom. Without pretending, therefore, that they had paid any part, either of the original purchase money or of the subsequent expense of improvement, they petitioned the Parliament that the cultivators of America might for the future be confined to their shop: first, for buying all the goods which they wanted from Europe; and, secondly, for selling all such parts of their own produce as those traders might find it convenient to buy. For they did not find it convenient to buy every part of it. Some of the parts of it imported into England might have interfered with some of the trades which they themselves carried on at home. Those particular parts of it, therefore, they were willing that the colonists should sell where they could; the farther off the better; and upon that account proposed that their market should be confined to the countries south of Cape Finisterre. A clause in the famous Act of Navigation established this truly shopkeeper proposal into a law.

The maintenance of this monopoly has hitherto been the principal, or more properly, perhaps, the sole end and purpose of the dominion which Great Britain assumes over her colonies. In the exclusive trade, it is supposed, consists the great advantage of provinces, which have never yet afforded either revenue or military force for the support of the civil government, or the defense of the mother country. The monopoly is the principal badge of their dependency, and it is the sole fruit which has hitherto been gathered from that dependency. Whatever expense Great Britain has hitherto laid out in maintaining this dependency, has really been laid out in order to support this monopoly. The expense of the ordinary peace establishment of the colonies amounted, before the commencement of the present disturbances, to the pay of twenty regiments of foot; to the expense of the artillery, stores, and extraordinary provisions with which it was necessary to supply them; and to the expense of a very considerable naval force which was constantly kept up, in order to guard, from the smuggling vessels of other nations, the immense coast of North America, and that of our

West Indian islands. The whole expense of this peace establishment was a charge upon the revenue of Great Britain, and was, at the same time, the smallest part of what the dominion of the colonies has cost the mother country. If we would know the amount of the whole, we must add to the annual expense of this peace establishment the interest of the sums which, in consequence of her considering her colonies as provinces subject to her dominion, Great Britain has upon different occasions laid out upon their defense. We must add to it, in particular, the whole expense of the late war and a great part of that of the war which preceded it. The late war was altogether a colony quarrel, and the whole expense of it, in whatever part of the world it may have been laid out, whether in Germany or the East Indies, ought justly to be stated to the account of the colonies. It amounted to more than ninety millions sterling, including not only the new debt which was contracted, but the two shillings in the pound additional land tax, and the sums which were every year borrowed from the sinking fund. The Spanish war which began in 1739 was principally a colony quarrel. Its principal object was to prevent the search of the colony ships which carried on a contraband trade with the Spanish main. This whole expense is, in reality, a bounty which has been given in order to support a monopoly. The pretended purpose of it was to encourage the manufactures and to increase the commerce of Great Britain. But its real effect has been to raise the rate of mercantile profit, and to enable our merchants to turn into a branch of trade, of which the returns are more slow and distant than those of the greater part of other trades, a greater proportion of their capital than they otherwise would have done; two events which, if a bounty could have prevented, it might perhaps have been very well worth while to give such a bounty.

Under the present system of management, therefore, Great Britain derives nothing but loss from the dominion which she assumes over her colonies.

To propose that Great Britain should voluntarily give up all authority over her colonies, and leave them to elect their own magistrates, to enact their own laws, and to make peace and war as they might think proper, would be to propose such a measure as never was and never will be adopted by any nation in the world. No nation ever voluntarily gave up the dominion of any province, how troublesome soever it might be to govern it, and how small soever the revenue which it afforded might be in proportion to the expense which it occasioned. Such sacrifices,

though they might frequently be agreeable to the interest, are always mortifying to the pride of every nation, and, what is perhaps of still greater consequence, they are always contrary to the private interest of the governing part of it, who would thereby be deprived of the disposal of many places of trust and profit, of many opportunities of acquiring wealth and distinction, which the possession of the most turbulent, and, to the great body of the people, the most unprofitable province seldom fails to afford. The most visionary enthusiast would scarce be capable of proposing such a measure, with any serious hopes at least of its ever being adopted. If it was adopted, however, Great Britain would not only be immediately freed from the whole annual expense of the peace establishment of the colonies, but might settle with them such a treaty of commerce as would effectually secure to her a free trade, more advantageous to the great body of the people, though less so to the merchants, than the monopoly which she at present enjoys. By thus parting good friends, the natural affection of the colonies to the mother country, which, perhaps, our late dissensions have well nigh extinguished, would quickly revive. It might dispose them not only to respect, for whole centuries together, that treaty of commerce which they had concluded with us at parting, but to favour us in war as well as in trade, and, instead of turbulent and factious subjects, to become our most faithful, affectionate and generous allies; and the same sort of parental affection on the one hand, and filial respect on the other, might revive between Great Britain and her colonies, which used to subsist between those of ancient Greece and the mother city from which they descended.

In order to render any province advantageous to the empire to which it belongs, it ought to afford, in time of peace, a revenue to the public sufficient not only for defraying the whole expense of its own peace establishment, but for contributing its proportion to the support of the general government of the empire. Every province necessarily contributes, more or less, to increase the expense of that general government. If any particular province, therefore, does not contribute its share towards defraying this expense, an unequal burden must be thrown upon some other part of the empire. The extraordinary revenue, too, which every province affords to the public in time of war, ought, from parity of reason, to bear the same proportion to the extraordinary revenue of the whole empire which its ordinary revenue does in time of peace. That neither the ordinary nor extraordinary revenue which Great Britain derives from her colonies bears this proportion to the whole revenue of

the British empire, will readily be allowed. The monopoly, it has been supposed, indeed, by increasing the private revenue of the people of Great Britain, and thereby enabling them to pay greater taxes, compensates the deficiency of the public revenue of the colonies. But this monopoly, I have endeavoured to show, though a very grievous tax upon the colonies, and though it may increase the revenue of a particular order of men in Great Britain, diminishes instead of increases that of the great body of the people, and consequently diminishes instead of increases the ability of the great body of the people to pay taxes. The men, too, whose revenue the monopoly increases, constitute a particular order, which it is both absolutely impossible to tax beyond the proportion of other orders, and extremely impolitic even to attempt to tax beyond that proportion, as I shall endeavour to show in the following Book. No particular resource, therefore, can be drawn from this particular order.

The colonies may be taxed either by their own assemblies, or by the Parliament of Great Britain.

That the colony assemblies can ever be so managed as to levy upon their constituents a public revenue sufficient not only to maintain at all times their own civil and military establishment, but to pay their proper proportion of the expense of the general government of the British empire, seems not very probable. It was a long time before even the Parliament of England, though placed immediately under the eye of the sovereign, could be brought under such a system of management, or could be rendered sufficiently liberal in their grants for supporting the civil and military establishments even of their own country. It was only by distributing among the particular members of Parliament a great part either of the offices or of the disposal of the offices arising from this civil and military establishment, that such a system of management could be established even with regard to the Parliament of England. But the distance of the colony assemblies from the eye of the sovereign, their number, their dispersed situation, and their various constitutions, would render it very difficult to manage them in the same manner, even though the sovereign had the same means of doing it; and those means are wanting. It would be absolutely impossible to distribute among all the leading members of all the colony assemblies such a share, either of the offices or of the disposal of the offices arising from the general government of the British empire, as to dispose them to give up their popularity at home and to tax their constituents for the support of that

general government, of which almost the whole emoluments were to be divided among people who were strangers to them. The unavoidable ignorance of administration, besides, concerning the relative importance of the different members of those different assemblies, the offences which must frequently be given, the blunders which must constantly be committed in attempting to manage them in this manner, seems to render such a system of management altogether impracticable in regard to them.

The colony assemblies, besides, cannot be supposed the proper judges of what is necessary for the defence and support of the whole empire. The care of that defence and support is not entrusted to them. It is not their business, and they have no regular means of information concerning it. The assembly of a province, like the vestry of a parish, may judge very properly concerning the affairs of its own particular district, but can have no proper means of judging concerning those of the whole empire. It cannot even judge properly concerning the proportion which its own province bears to the whole empire, or concerning the relative degree of its wealth and importance, compared with the other provinces; because those other provinces are not under the inspection and superintendency of the assembly of a particular province. What is necessary for the defence and support of the whole empire, and in what proportion each part ought to contribute, can be judged of only by that assembly which inspects and superintends the affairs of the whole empire.

It has been proposed, accordingly, that the colonies should be taxed by requisition, the Parliament of Great Britain determining the sum which each colony ought to pay, and the provincial assembly assessing and levying it in the way that suited best the circumstances of the province. What concerned the whole empire would in this way be determined by the assembly which inspects and superintends the affairs of the whole empire; and the provincial affairs of each colony might still be regulated by its own assembly. Though the colonies should in this case have no representatives in the British Parliament, yet, if we may judge by experience, there is no probability that the parliamentary requisition would be unreasonable. The Parliament of England has not upon any occasion shown the smallest disposition to overburden those parts of the empire which are not represented in Parliament. The islands of Guernsey and Jersey, without any means of resisting the authority of Parliament, are more lightly taxed than any part of Great Britain. Parliament

in attempting to exercise its supposed right, whether well or ill grounded, of taxing the colonies, has never hitherto demanded of them anything which even approached to a just proportion of what was paid by their fellow-subjects at home. If the contribution of the colonies, besides, was to rise or fall in proportion to the rise or fall of the land-tax, Parliament could not tax them without taxing at the same time its own constituents, and the colonies might in this case be considered as virtually represented in Parliament.

Examples are not wanting of empires in which all the different provinces are not taxed, if I may be allowed the expression, in one mass, but in which the sovereign regulates the sum which each province ought to pay, and in some provinces assesses and levies it as he thinks proper, while in others he leaves it to be assessed and levied as the respective states of each province shall determine. In some provinces of France the king not only imposes what taxes he thinks proper, but assesses and levies them in the way he thinks proper. From others he demands a certain sum, but leaves it to the states of each province to assess and levy that sum as they think proper. According to the scheme of taxing by requisition, the Parliament of great Britain would stand nearly in the same situation towards the colony assemblies as the King of France does towards the states of those provinces which still enjoy the privilege of having states of their own, the provinces of France which are supposed to be the best governed.

But though, according to this scheme, the colonies could have no just reason to fear that their share of the public burdens should ever exceed the proper proportion to that of their fellow-citizens at home, Great Britain might have just reason to fear that it never would amount to that proper proportion. The Parliament of Great Britain has not for some time past had the same established authority in the colonies which the French king has in those provinces of France which still enjoy the privilege of having states of their own. The colony assemblies, if they were not very favourably disposed (and unless more skilfully managed than they ever have been hitherto, they are not very likely to be so) might still find many pretences for evading or rejecting the most reasonable requisitions of Parliament. A French war breaks out, we shall suppose; ten millions must immediately be raised, in order to defend the seat of empire. This sum must be borrowed upon the credit of some parliamentary fund mortgaged for paying the interest. Part of this fund Parliament proposes to raise by a tax to be levied in Great Britain,

and part of it by a requisition to all the different colony assemblies of America and the West Indies. Would people readily advance their money upon the credit of a fund which partly depended upon the good-humour of all those assemblies, far distant from the seat of war, and sometimes perhaps thinking themselves not much concerned in the event of it? Upon such a fund no more money would probably be advanced than what the tax to be levied in Great Britain might be supposed to answer for. The whole burden of the debt contracted on account of the war would in this manner fall, as it always has done hitherto, upon Great Britain; upon a part of the empire, and not upon the whole empire. Great Britain is, perhaps, since the world began, the only state which, as it has extended its empire, has only increased its expense without once augmenting its resources. Other states have generally disburdened themselves upon their subject and subordinate provinces of the most considerable part of the expense of defending the empire. Great Britain has hitherto suffered her subject and subordinate provinces to disburden themselves upon her of almost this whole expense. In order to put Great Britain upon a footing of equality with her own colonies, which the law has hitherto supposed to be subject and subordinate, it seems necessary, upon the scheme of taxing them by parliamentary requisition, that Parliament should have some means of rendering its requisitions immediately effectual, in case the colony assemblies should attempt to evade or reject them; and what those means are it is not very easy to conceive, and it has not yet been explained.

Should the Parliament of Great Britain, at the same time, be ever fully established in the right of taxing the colonies, even independent of the consent of their own assemblies, the importance of those assemblies would from that moment be at an end, and with it, that of all the leading men of British America. Men desire to have some share in the management of public affairs chiefly on account of the importance which it gives them. Upon the power which the greater part of the leading men, the natural aristocracy of every country, have of preserving or defending their respective importance, depends the stability and duration of every system of free government. In the attacks which those leading men are continually making upon the importance of one another, and in the defence of their own, consists the whole play of domestic faction and ambition. The leading men of America, like those of all other countries, desire to preserve their own importance. They feel, or imagine, that if their assemblies, which they are fond of calling

Parliaments, and of considering as equal in authority to the Parliament of Great Britain, should be so far degraded as to become the humble ministers and executive officers of that Parliament, the greater part of their own importance would be at an end. They have rejected, therefore, the proposal of being taxed by parliamentary requisition, and, like other ambitious and high-spirited men, have rather chosen to draw the sword in defence of their own importance.

Towards the declension of the Roman republic, the allies of Rome, who had borne the principal burden of defending the state and extending the empire, demanded to be admitted to all the privileges of Roman citizens. Upon being refused, the social war broke out. During the course of that war, Rome granted those privileges to the greater part of them, one by one, and in proportion as they detached themselves from the general confederacy. The Parliament of Great Britain insists upon taxing the colonies; and they refuse to be taxed by a Parliament in which they are not represented. If to each colony, which should detach itself from the general confederacy, Great Britain should allow such a number of representatives as suited the proportion of what it contributed to the public revenue of the empire, in consequence of its being subjected to the same taxes, and in compensation admitted to the same freedom of trade with its fellow-subject at home—the number of its representatives to be augmented as the proportion of its contribution might afterwards augment—a new method of acquiring importance, a new and more dazzling object of ambition would be presented to the leading men of each colony. Instead of piddling for the little prizes which are to be found in what may be called the paltry raffle of colony faction, they might then hope, from the presumption which men naturally have in their own ability and good fortune, to draw some of the great prizes which sometimes come from the wheel of the great state lottery of British politics. Unless this or some other method is fallen upon (and there seems to be none more obvious than this), of preserving the importance and of gratifying the ambition of the leading men of America, it is not very probable that they will ever voluntarily submit to us; and we ought to consider that the blood which must be shed in forcing them to do so, is, every drop of it, the blood either of those who are, or of those whom we wish to have for our fellow-citizens. They are very weak who flatter themselves that, in the state to which things have come, our colonies will be easily conquered by force alone. The persons who now govern the resolutions of what they call their Continental Congress, feel in them-

selves at this moment a degree of importance which, perhaps, the greatest subjects in Europe scarce feel. From shopkeepers, tradesmen, and attorneys, they are become statesmen and legislators, and are employed in contriving a new form of government for an extensive empire, which they flatter themselves, will become, and which, indeed, seems very likely to become, one of the greatest and most formidable that ever was in the world. Five hundred different people, perhaps, who in different ways act immediately under the continental congress; and five hundred thousand, perhaps, who act under those five hundred, all feel in the same manner a proportionable rise in their own importance. Almost every individual of the governing party in America fills at present, in his own fancy, a station superior, not only to what he had ever filled before, but to what he had ever expected to fill; and unless some new object of ambition is presented either to him or to his leaders, if he has the ordinary spirit of a man, he will die in defence of that station.

It is a remark of the President Henaut that we now read with pleasure the account of many little transactions of the Ligue, which when they happened were not perhaps considered as very important pieces of news. But every man then, says he, fancied himself of some importance; and the innumerable memoirs which have come down to us from those times, were, the greater part of them, written by people who took pleasure in recording and magnifying events in which they flattered themselves they had been considerable actors. How obstinately the city of Paris upon that occasion defended itself, what a dreadful famine it supported rather than submit to the best and afterwards the most beloved of all the French kings, is well known. The greater part of the citizens, or those who governed the greater part of them, fought in defence of their own importance, which they foresaw was to be at an end whenever the ancient government should be re-established. Our colonies, unless they can be induced to consent to a union, are very likely to defend themselves against the best of all mother countries, as obstinately as the city of Paris did against one of the best of kings.

The idea of representation was unknown in ancient times. When the people of one state were admitted to the right of citizenship in another, they had no other means of exercising that right but by coming in a body to vote and deliberate with the people of that other state. The admission of the greater part of the inhabitants of Italy to the privileges of Roman citizens completely ruined the Roman republic. It was no longer possible to distinguish between who was and who was not

a Roman citizen. No tribe could know its own members. A rabble of any kind could be introduced into the assemblies of the people, could drive out the real citizens, and decide upon the affairs of the republic as if they themselves had been such. But though America was to send fifty or sixty new representatives to Parliament, the door-keeper of the House of Commons could not find any great difficulty in distinguishing between who was and who was not a member. Though the Roman constitution, therefore, was necessarily ruined by the union of Rome with the allied states of Italy, there is not the least probability that the British constitution would be hurt by the union of Great Britain with her colonies. That constitution, on the contrary, would be completed by it; and seems to be imperfect without it. The assembly which deliberates and decides concerning the affairs of every part of the empire, in order to be properly informed, ought certainly to have representatives from every part of it. That this union, however, could be easily effectuated, or that difficulties and great difficulties might not occur in the execution, I do not pretend. I have yet heard of none, however, which appear insurmountable. The principal perhaps arise, not from the nature of things, but from the prejudices and opinions of the people both on this and on the other side of the Atlantic.

We, on this side the water, are afraid lest the multitude of American representatives should overturn the balance of the constitution, and increase too much either the influence of the Crown on the one hand, or the force of the democracy on the other. But if the number of American representatives was to be in proportion to the produce of American taxation, the number of people to be managed would increase exactly in proportion to the means of managing them; and the means of managing, to the number of people to be managed. The monarchial and democratical parts of the constitution would, after the union, stand exactly in the same degree of relative force with regard to one another as they had done before.

The people on the other side of the water are afraid lest their distance from the seat of government might expose them to many oppressions. But their representatives in Parliament, of which the number ought from the first to be considerable, would easily be able to protect them from all oppression. The distance could not much weaken the dependency of the representative upon the constituent, and the former would still feel that he owed his seat in Parliament, and all the consequence which he derived from it, to the good-will of the latter. It would

be the interest of the former, therefore, to cultivate that good-will by complaining, with all the authority of a member of the Legislature, of every outrage which any civil or military officer might be guilty of in those remote parts of the empire. The distance of America from the seat of government, besides, the natives of that country might flatter themselves, with some appearance of reason too, would not be of very long continuance. Such has hitherto been the rapid progress of that country in wealth, population and improvement, that in the course of little more than a century, perhaps, the produce of American might exceed that of British taxation. The seat of the empire would then naturally remove itself to that part of the empire which contributed most to the general defence and support of the whole.

The discovery of America, and that of a passage to the East Indies by the Cape of Good Hope, are the two greatest and most important events recorded in the history of mankind. Their consequences have already been very great; but, in the short period of between two and three centuries which has elapsed since these discoveries were made, it is impossible that the whole extent of their consequences can have been seen. What benefits or what misfortunes to mankind may hereafter result from those great events, no human wisdom can foresee. By uniting, in some measure, the most distant parts of the world, by enabling them to relieve one another's wants, to increase one another's enjoyments, and to encourage one another's industry, their general tendency would seem to be beneficial. To the natives, however, both of the East and West Indies, all the commercial benefits which can have resulted from those events have been sunk and lost in the dreadful misfortunes which they have occasioned. These misfortunes, however, seem to have arisen rather from accident than from anything in the nature of those events themselves. At the particular time when these discoveries were made, the superiority of force happened to be so great on the side of the Europeans, that they were enabled to commit with impunity every sort of injustice in those remote countries. Hereafter, perhaps, the natives of those countries may grow stronger, or those of Europe may grow weaker, and the inhabitants of all the different quarters of the world may arrive at that equality of courage and force which, by inspiring mutual fear, can alone overawe the injustice of independent nations into some sort of respect for the rights of one another. But nothing seems more likely to establish this equality of force than that mutual communication of knowledge and of all sorts of improvements which

an extensive commerce from all countries to all countries naturally, or rather necessarily, carries along with it.

In the meantime, one of the principal effects of those discoveries has been to raise the merchant system to a degree of splendour and glory which it could never otherwise have attained to. It is the object of that system to enrich a great nation rather by trade and manufactures than by the improvement and cultivation of land, rather by the industry of the towns than by that of the country. But, in consequence of those discoveries, the commercial towns of Europe, instead of being the manufacturers and carriers for but a very small part of the world (that part of Europe which is washed by the Atlantic Ocean, and the countries which lie round the Baltic and Mediterranean Seas), have now become the manufacturers for the numerous and thriving cultivators of America, and the carriers, and in some respects the manufacturers, too, for almost all the different nations of Asia, Africa, and America. Two new worlds have been opened to their industry, each of them much greater and more extensive than the old one, and the market of one of them is growing still greater and greater every day.

The countries which possess the colonies of America, and which trade directly to the East Indies, enjoy, indeed, the whole show and splendour of this great commerce. Other countries, however, notwithstanding all the invidious restraints by which it is meant to exclude them, frequently enjoy a greater share of the real benefit of it. The colonies of Spain and Portugal, for example, give more real encouragement to the industry of other countries than to that of Spain and Portugal. In the single article of linen alone the consumption of those colonies amounts, it is said, to more than three millions sterling a year. But this great consumption is almost entirely supplied by France, Flanders, Holland, and Germany. Spain and Portugal furnish but a small part of it. The capital which supplies the colonies with this great quantity of linen is annually distributed among and furnishes a revenue to the inhabitants of those other countries. The profits of it only are spent in Spain and Portugal, where they help to support the sumptuous profusion of the merchants of Cadiz and Lisbon.

Even the regulations by which each nation endeavours to secure to itself the exclusive trade of its own colonies, are frequently more hurtful to the countries in favour of which they are established than to those against which they are established. The unjust oppression of the industry of other countries falls back, if I may say so, upon the heads

of the oppressors, and crushes their industry more than it does that of those other countries. By those regulations, for example, the merchant of Hamburg must send the linen which he destines for the American market to London, and he must bring back from thence the tobacco which he destines for the German market; because he can neither send the one directly to America, nor bring back the other directly from thence. By this restraint he is probably obliged to sell the one somewhat cheaper, and to buy the other somewhat dearer than he otherwise might have done; and his profits are probably somewhat abridged by means of it. In this trade, however, between Hamburg and London, he certainly receives the returns of his capital much more quickly than he could possibly have done in the direct trade to America, even though we should suppose, what is by no means the case, that the payments of America were as punctual as those of London. In the trade, therefore, to which those regulations confine the merchant of Hamburg, his capital can keep in constant employment a much greater quantity of German industry than it possibly could have done in the trade from which he is excluded. Though the one employment, therefore, may to him perhaps be less profitable than the other, it cannot be less advantageous to his country. It is quite otherwise with the employment into which the monopoly naturally attracts, if I may say so, the capital of the London merchant. That employment may, perhaps, be more profitable to him than the greater part of other employments, but, on account of the slowness of the returns, it cannot be more advantageous to his country.

After all the unjust attempts, therefore, of every country in Europe to engross to itself the whole advantage of the trade of its own colonies, no country has yet been able to engross to itself anything but the expense of supporting in time of peace and of defending in time of war the oppressive authority which it assumes over them. The inconveniences resulting from the possession of its colonies, every country has engrossed to itself completely. The advantages resulting from their trade it has been obliged to share with many other countries.

At first sight, no doubt, the monopoly of the great commerce of America naturally seems to be an acquisition of the highest value. To the undiscerning eye of giddy ambition, it naturally presents itself amidst the confused scramble of politics and war as a very dazzling object to fight for. The dazzling splendour of the object, however, the immense greatness of the commerce, is the very quality which renders the monopoly of it hurtful, or which makes one employment, in its own nature

necessarily less advantageous to the country than the greater part of other employments, absorb a much greater proportion of the capital of the country than what would otherwise have gone to it.

The mercantile stock of every country, it has been shown in the Second Book, naturally seeks, if one may say so, the employment most advantageous to that country. If it is employed in the carrying trade, the country to which it belongs becomes the emporium of the goods of all the countries whose trade that stock carries on. But the owner of that stock necessarily wishes to dispose of as great a part of those goods as he can at home. He thereby saves himself the trouble, risk, and expense of exportation, and he will upon that account be glad to sell them at home, not only for a much smaller price, but with somewhat a smaller profit than he might expect to make by sending them abroad. He naturally, therefore, endeavours as much as he can to turn his carrying trade into a foreign trade of consumption. If his stock again is employed in a foreign trade of consumption, he will, for the same reason, be glad to dispose of at home as great a part as he can of the home goods, which he collects in order to export to some foreign market, and he will thus endeavour, as much as he can, to turn his foreign trade of consumption into a home trade. The mercantile stock of every country naturally courts in this manner the near, and shuns the distant employment; naturally courts the employment in which the returns are frequent, and shuns that in which they are distant and slow; naturally courts the employment in which it can maintain the greatest quantity of productive labour in the country to which it belongs, or in which its owner resides, and shuns that in which it can maintain there the smallest quantity. It naturally courts the employment which in ordinary cases is most advantageous, and shuns that which in ordinary cases is least advantageous to that country.

But if in any of those distant employments, which in ordinary cases are less advantageous to the country, the profit should happen to rise somewhat higher than what is sufficient to balance the natural preference which is given to nearer employments, this superiority of profit will draw stock from those nearer employments, till the profits of all return to their proper level. This superiority of profit, however, is a proof that in the actual circumstances of the society, those distant employments are somewhat understocked in proportion to other employments, and that the stock of the society is not distributed in the properest manner among all the different employments carried on in it. It is a

proof that something is either bought cheaper or sold dearer than it ought to be, and that some particular class of citizens is more or less oppressed either by paying more or by getting less than what is suitable to that equality, which ought to take place, and which naturally does take place, among all the different classes of them. Though the same capital never will maintain the same quantity of productive labour in a distant as in a near employment, yet a distant employment may be as necessary for the welfare of the society as a near one; the goods which the distant employment deals in being necessary, perhaps, for carrying on many of the nearer employments. But if the profits of those who deal in such goods are above their proper level, those goods will be sold dearer than they ought to be, or somewhat above their natural price, and all those engaged in the nearer employments will be more or less oppressed by this high price. Their interest, therefore, in this case requires that some stock should be withdrawn from those nearer employments, and turned towards that distant one, in order to reduce its profits to their proper level, and the price of the goods which it deals in to their natural price. In this extraordinary case, the public interest requires that some stock should be withdrawn from those employments which in ordinary cases are more advantageous, and turned towards one which in ordinary cases is less advantageous to the public; and in this extraordinary case, the natural interests and inclinations of men coincide as exactly with the public interest as in all other ordinary cases, and lead them to withdraw stock from the near, and to turn it towards the distant employment.

It is thus that the private interests and passions of individuals naturally dispose them to turn their stock towards the employments which in ordinary cases are most advantageous to the society. But if from this natural preference they should turn too much of it towards those employments, the fall of profit in them and the rise of it in all others immediately dispose them to alter this faulty distribution. Without any intervention of law, therefore, the private interests and passions of men naturally lead them to divide and distribute the stock of every society, among all the different employments carried on in it, as nearly as possible in the proportion which is most agreeable to the interest of the whole society.

All the different regulations of the mercantile system necessarily derange more or less this natural and most advantageous distribution of stock. But those which concern the trade to America and the East

Indies derange it, perhaps, more than any other; because the trade to those two great continents absorbs a greater quantity of stock than any two other branches of trade. The regulations, however, by which this derangement is effected in those two different branches of trade are not altogether the same. Monopoly is the great engine of both; but it is a different sort of monopoly. Monopoly of one kind or another, indeed, seems to be the sole engine of the mercantile system.

In the trade to America, every nation endeavours to engross as much as possible the whole market of its own colonies, by fairly excluding all other nations from any direct trade to them. During the greater part of the sixteenth century, the Portuguese endeavoured to manage the trade to the East Indies in the same manner, by claiming the sole right of sailing in the Indian seas, on account of the merit of having first found out the road to them. The Dutch still continue to exclude all other European nations from any direct trade to their spice islands. Monopolies of this kind are evidently established against all other European nations, who are thereby not only excluded from a trade to which it might be convenient for them to turn some part of their stock, but are obliged to buy the goods which that trade deals in somewhat dearer, than if they could import them themselves directly from the countries which produce them.

But since the fall of the power of Portugal, no European nation has claimed the exclusive right of sailing in the Indian seas, of which the principal ports are now open to the ships of all European nations. Except in Portugal, however, and within these few years in France, the trade to the East Indies has in every European country been subjected to an exclusive company. Monopolies of this kind are properly established against the very nation which erects them. The greater part of that nation are thereby not only excluded from a trade to which it might be convenient for them to turn some part of their stock, but are obliged to buy the goods which that trade deals in, somewhat dearer than if it was open and free to all their countrymen. Since the establishment of the English East India Company, for example, the other inhabitants of England, over and above being excluded from the trade, must have paid in the price of the East India goods which they have consumed, not only for all the extraordinary profits which the Company may have made upon those goods in consequence of their monopoly, but for all the extraordinary waste which the fraud and abuse, inseparable from the management of the affairs of so great a Company, must

necessarily have occasioned. The absurdity of this second kind of monopoly, therefore, is much more manifest than that of the first.

Both these kinds of monopolies derange more or less the natural distribution of the stock of the society; but they do not always derange it in the same way.

Monopolies of the first kind always attract to the particular trade in which they are established a greater proportion of the stock of the society than what would go to that trade of its own accord.

Monopolies of the second kind may sometimes attract stock towards the particular trade in which they are established, and sometimes repel it from that trade according to different circumstances. In poor countries, they naturally attract towards that trade more stock than would otherwise go to it. In rich countries, they naturally repel from it a good deal of stock which would otherwise go to it.

Such poor countries as Sweden and Denmark, for example, would probably have never sent a single ship to the East Indies, had not the trade been subjected to an exclusive company. The establishment of such a company necessarily encourages adventurers. Their monopoly secures them against all competitors in the home market, and they have the same chance for foreign markets with the traders of other nations. Their monopoly shows them the certainty of a great profit upon a considerable quantity of goods, and the chance of a considerable profit upon a great quantity. Without such extraordinary encouragement, the poor traders of such poor countries would probably never have thought of hazarding their small capitals in so very distant and uncertain an adventure as the trade to the East Indies must naturally have appeared to them.

Such a rich country as Holland, on the contrary, would probably, in the case of a free trade, send many more ships to the East Indies than it actually does. The limited stock of the Dutch East India Company probably repels from that trade many great mercantile capitals which would otherwise go to it. The mercantile capital of Holland is so great that it is, as it were, continually overflowing, sometimes into the public funds of foreign countries, sometimes into loans to private traders and adventurers of foreign countries, sometimes into the most round-about foreign trade of consumption, and sometimes into the carrying trade. All near employments being completely filled up, all the capital which can be placed in them with any tolerable profit being already placed in them, the capital of Holland necessarily flows towards the most distant

employments. The trade to the East Indies, if it was altogether free, would probably absorb the greater part of this redundant capital. The East Indies offer a market both for the manufacturers of Europe and for the gold and silver as well as for several other productions of America, greater and more extensive than both Europe and America put together.

Every derangement of the natural distribution of stock is necessarily hurtful to the society in which it takes place; whether it be by repelling from a particular trade the stock which would otherwise go to it, or by attracting towards a particular trade that which would not otherwise come to it. If, without any exclusive company, the trade of Holland to the East Indies would be greater than it actually is, that country must suffer a considerable loss by part of its capital being excluded from the employment most convenient for that part. And in the same manner, if, without an exclusive company, the trade of Sweden and Denmark to the East Indies would be less than it actually is, or, what perhaps is more probable, would not exist at all, those two countries must likewise suffer a considerable loss by part of their capital being drawn into an employment which must be more or less unsuitable to their present circumstances. Better for them, perhaps, in their present circumstances, to buy East India goods of other nations, even though they should pay somewhat dearer, than to turn so great a part of their small capital to so very distant a trade, in which the returns are so very slow, in which that capital can maintain so small a quantity of productive labour at home, where productive labour is so much wanted, where so little is done, and where so much is to do.

Though without an exclusive company, therefore, a particular country should not be able to carry on any direct trade to the East Indies, it will not from thence follow that such a company ought to be established there, but only that such a country ought not in these circumstances to trade directly to the East Indies. That such companies are not in general necessary for carrying on the East India trade, is sufficiently demonstrated by the experience of the Portuguese, who enjoyed almost the whole of it for more than a century together without any exclusive company.

No private merchant, it has been said, could well have capital sufficient to maintain factors and agents in the different ports of the East Indies, in order to provide goods for the ships which he might occasionally send thither; and yet, unless he was able to do this, the difficulty of finding a cargo might frequently make his ships lose the season for

returning, and the expense of so long a delay would not only eat up the whole profit of the adventure, but frequently occasion a very considerable loss. This argument, however, if it proved anything at all, would prove that no one great branch of trade could be carried on without an exclusive company, which is contrary to the experience of all nations. There is no great branch of trade in which the capital of any one private merchant is sufficient for carrying on all the subordinate branches which must be carried on in order to carry on the principal one. But when a nation is ripe for any great branch of trade, some merchants naturally turn their capitals towards the principal, and some towards the subordinate branches of it; and though all the different branches of it are in this manner carried on, yet it very seldom happens that they are all carried on by the capital of one private merchant. If a nation, therefore, is ripe for the East India trade, a certain portion of its capital will naturally divide itself among all the different branches of that trade. Some of its merchants will find it for their interest to reside in the East Indies, and to employ their capitals there in providing goods for the ships which are to be sent out by other merchants who reside in Europe. The settlements which different European nations have obtained in the East Indies, if they were taken from the exclusive companies to which they at present belong and put under the immediate protection of the sovereign, would render this residence both safe and easy, at least to the merchants of the particular nations to whom those settlements belong. If at any particular time that part of the capital of any country which of its own accord tended and inclined, if I may say so, towards the East India trade, was not sufficient for carrying on all those different branches of it, it would be a proof that, at that particular time, that country was not ripe for that trade, and that it would do better to buy for some time, even at a higher price, from other European nations, the East India goods it had occasion for, than to import them itself directly from the East Indies. What it might lose by the high price of those goods could seldom be equal to the loss which it would sustain by the distraction of a large portion of its capital from other employments more necessary, or more useful, or more suitable to its circumstances and situation, than a direct trade to the East Indies.

Though the Europeans possess many considerable settlements both upon the coast of Africa and in the East Indies, they have not yet established in either of those countries such numerous and thriving colonies as those in the islands and continents of America. Africa, how-

ever, as well as several of the countries comprehended under the general name of the East Indies, are inhabited by barbarous nations. But those nations were by no means so weak and defenceless as the miserable and helpless Americans; and in proportion to the natural fertility of the countries which they inhabited, they were besides much more populous. The most barbarous nations either of Africa or of the East Indies were shepherds; even the Hottentots were so. But the natives of every part of America, except Mexico and Peru, were only hunters; and the difference is very great between the number of shepherds and that of hunters whom the same extent of equally fertile territory can maintain. In Africa and the East Indies, therefore, it was more difficult to displace the natives, and to extend the European plantations over the greater part of the lands of the original inhabitants. The genius of exclusive companies, besides, is unfavourable, it has already been observed, to the growth of new colonies, and has probably been the principal cause of the little progress which they have made in the East Indies. The Portuguese carried on the trade both to Africa and the East Indies without any exclusive companies, and their settlements at Congo, Angola, and Benguela on the coast of Africa, and at Goa in the East Indies, though much depressed by superstition and every sort of bad government, yet bear some faint resemblance to the colonies of America, and are partly inhabited by Portuguese who have been established there for several generations. The Dutch settlements at the Cape of Good Hope and at Batavia are at present the most considerable colonies which the Europeans have established either in Africa or in the East Indies, and both these settlements are peculiarly fortunate in their situation. The Cape of Good Hope was inhabited by a race of people almost as barbarous and quite as incapable of defending themselves as the natives of America. It is besides the half-way house, if one may say so, between Europe and the East Indies, at which almost every European ship makes some stay both in going and returning. The supplying of those ships with every sort of fresh provisions, with fruit and sometimes with wine, affords alone a very extensive market for the surplus produce of the colonists. What the Cape of Good Hope is between Europe and every part of the East Indies, Batavia is between the principal countries of the East Indies. It lies upon the most frequented road from Hindostan to China and Japan, and is nearly about mid-way upon that road. Almost all the ships, too, that sail between Europe and China touch at Batavia; and it is, over and above all this, the centre and principal mart of what

is called the country trade of the East Indies; not only of that part of it which is carried on by Europeans, but of that which is carried on by the native Indians; and vessels navigated by the inhabitants of China and Japan, of Tonquin, Malacca, Cochin-China, and the island of Celebes, are frequently to be seen in its port. Such advantageous situations have enabled those two colonies to surmount all the obstacles which the oppressive genius of an exclusive company may have occasionally opposed to their growth. They have enabled Batavia to surmount the additional disadvantage of perhaps the most unwholesome climate in the world.

The English and Dutch companies, though they have established no considerable colonies, except the two above mentioned, have both made considerable conquests in the East Indies. But in the manner in which they both govern their new subjects, the natural genius of an exclusive company has shown itself most distinctly. In the spice islands, the Dutch are said to burn all the spiceries which a fertile season produces beyond what they expect to dispose of in Europe with such a profit as they think sufficient. In the islands where they have no settlements, they give a premium to those who collect the young blossoms and green leaves of the clove and nutmeg trees which naturally grow there, but which this savage policy has now, it is said, almost completely extirpated. Even in the islands where they have settlements they have very much reduced, it is said, the number of those trees. If the produce even of their own islands was much greater than what suited their market, the natives, they suspect, might find means to convey some part of it to other nations; and the best way, they imagine, to secure their own monopoly, is to take care that no more shall grow than what they themselves carry to market. By different acts of oppression they have reduced the population of several of the Moluccas nearly to the number which is sufficient to supply with fresh provisions and other necessaries of life their own insignificant garrisons, and such of their ships as occasionally come there for a cargo of spices. Under the government even of the Portuguese, however, those islands are said to have been tolerably well inhabited. The English company have not yet had time to establish in Bengal so perfectly destructive a system. The plan of their government, however, has had exactly the same tendency. It has not been uncommon, I am well assured, for the chief, that is, the first clerk of a factory, to order a peasant to plough up a rich field of poppies, and sow it with rice or some other grain. The pretence was, to prevent a

scarcity of provisions; but the real reason, to give the chief an opportunity of selling at a better price a large quantity of opium, which he happened then to have on hand. Upon other occasions the order has been reversed, and a rich field of rice or other grain has been ploughed up, in order to make room for a plantation of poppies; when the chief foresaw that extraordinary profit was likely to be made by opium. The servants of the company have upon several occasions attempted to establish in their own favour the monopoly of some of the most important branches, not only of the foreign, but of the inland trade of the country. Had they been allowed to go on, it is impossible that they should not at some time or another have attempted to restrain the production of the particular articles of which they had thus usurped the monopoly, not only to the quantity which they themselves could purchase, but to that which they could expect to sell with such a profit as they might think sufficient. In the course of a century or two, the policy of the English company would in this manner have probably proved as completely destructive as that of the Dutch.

Nothing, however, can be more directly contrary to the real interest of those companies, considered as the sovereigns of the countries which they have conquered, than this destructive plan. In almost all countries the revenue of the sovereign is drawn from that of the people. The greater the revenue of the people, therefore, the greater the annual produce of their land and labour, the more they can afford to the sovereign. It is his interest, therefore, to increase as much as possible that annual produce. But if this is the interest of every sovereign, it is peculiarly so of one whose revenue, like that of the sovereign of Bengal, arises chiefly from a land-rent. That rent must necessarily be in proportion to the quantity and value of the produce, and both the one and the other must depend upon the extent of the market. The quantity will always be suited with more or less exactness to the consumption of those who can afford to pay for it, and the price which they will pay will always be in proportion to the eagerness of their competition. It is the interest of such a sovereign, therefore, to open the most extensive market for the produce of his country, to allow the most perfect freedom of commerce, in order to increase as much as possible the number and the competition of buyers; and upon this account to abolish, not only all monopolies, but all restraints upon the transportation of the home produce from one part of the country to another, upon its exportation to foreign countries, or upon the importation of goods of any kind for

which it can be exchanged. He is in this manner most likely to increase both the quantity and value of that produce, and consequently of his own share of it, or of his own revenue.

But a company of merchants are, it seems, incapable of considering themselves as sovereigns, even after they have become such. Trade, or buying in order to sell again, they still consider as their principal business, and, by a strange absurdity, regard the character of the sovereign as but an appendix to that of the merchant, as something which ought to be made subservient to it, or by means of which they may be enabled to buy cheaper in India, and thereby to sell with a better profit in Europe. They endeavour for this purpose to keep out as much as possible all competitors from the market of the countries which are subject to their government, and consequently to reduce, at least, some part of the surplus produce of those countries to what is barely sufficient for supplying their own demand, or to what they can expect to sell in Europe with such a profit as they may think reasonable. Their mercantile habits draw them in this manner, almost necessarily, though perhaps insensibly, to prefer upon all ordinary occasions the little and transitory profit of the monopolist to the great and permanent revenue of the sovereign, and would gradually lead them to treat the countries subject to their government nearly as the Dutch treat the Moluccas. It is the interest of the East India Company, considered as sovereigns, that the European goods which are carried to their Indian dominions should be sold there as cheap as possible; and that the Indian goods which are brought from thence should bring there as good a price, or should be sold there as dear as possible. But the reverse of this is their interest as merchants. As sovereigns, their interest is exactly the same with that of the country which they govern. As merchants, their interest is directly opposite to that interest.

But if the genius of such a government, even as to what concerns its direction in Europe, is in this manner essentially and perhaps incurably faulty, that of its administration in India is still more so. That administration is necessarily composed of a council of merchants, a profession no doubt extremely respectable, but which in no country in the world carries along with it that sort of authority which naturally overawes the people, and without force commands their willing obedience. Such a council can command obedience only by the military force with which they are accompanied, and their government is therefore necessarily military and despotical. Their proper business, however, is that of mer-

chants. It is to sell, upon their masters' account, the European goods consigned to them, and to buy in return Indian goods for the European market. It is to sell the one as dear and to buy the other as cheap as possible, and consequently to exclude as much as possible all rivals from the particular market where they keep their shop. The genius of the administration, therefore, so far as concerns the trade of the company, is the same as that of the direction. It tends to make government subservient to the interest of monopoly, and consequently to stunt the natural growth of some parts at least of the surplus produce of the country to what is barely sufficient for answering the demand of the company.

All the members of the administration, besides, trade more or less upon their own account, and it is in vain to prohibit them from doing so. Nothing can be more completely foolish than to expect that the clerks of a great counting-house at ten thousand miles distance, and consequently almost quite out of sight, should, upon a simple order from their masters, give up at once doing any sort or business upon their own account, abandon for ever all hopes of making a fortune, of which they have the means in their hands, and content themselves with the moderate salaries which those masters allow them, and which, moderate as they are, can seldom be augmented, being commonly as large as the real profits of the company trade can afford. In such circumstances, to prohibit the servants of the company from trading on their own account can have scarce any other effect than to enable the superior servants, under pretense of executing their masters' orders, to oppress such of the inferior ones as have had the misfortune to fall under their displeasure. The servants naturally endeavour to establish the same monopoly in favour of their own private trade as of the public trade of the company. If they are suffered to act as they could wish, they will establish this monopoly openly and directly, by fairly prohibiting all other people from trading in the articles in which they choose to deal; and this, perhaps, is the best and least oppressive way of establishing it. But if, by an order from Europe, they are prohibited from doing this, they will, notwithstanding, endeavour to establish a monopoly of the same kind, secretly and indirectly, in a way that is much more destructive to the country. They will employ the whole authority of government, and pervert the administration of justice, in order to harass and ruin those who interfere with them in any branch of commerce which, by means of agents, either concealed, or at least not publicly avowed, they may choose to carry on. But the private trade of the servants will naturally extend to a much

greater variety of articles than the public trade of the company. The public trade of the company extends no farther than the trade with Europe, and comprehends a part only of the foreign trade of the country; but the private trade of the servants may extend to all the different branches both of its inland and foreign trade. The monopoly of the company can tend only to stunt the natural growth of that part of the surplus produce which, in the case of a free trade, would be exported to Europe. That of the servants tends to stunt the natural growth of every part of the produce in which they choose to deal, of what is destined for home consumption, as well as of what is destined for exportation; and consequently to degrade the cultivation of the whole country, and to reduce the number of its inhabitants. It tends to reduce the quantity of every sort of produce, even that of the necessaries of life, whenever the servants of the company choose to deal in them, to what those servants can both afford to buy and expect to sell with such a profit as pleases them.

From the nature of their situation, too, the servants must be more disposed to support with rigorous severity their own interest against that of the country which they govern, than their masters can be to support theirs. The country belongs to their masters, who cannot avoid having some regard for the interest of what belongs to them. But it does not belong to the servants. The real interest of their masters, if they were capable of understanding it, is the same with that of the country, and it is from ignorance chiefly, and the meanness of mercantile prejudice, that they ever oppress it. But the real interest of the servants is by no means the same with that of the country, and the most perfect information would not necessarily put an end to their oppressions. The regulations accordingly which have been sent out from Europe, though they have been frequently weak, have upon most occasions been well-meaning. More intelligence and perhaps less good-meaning has sometimes appeared in those established by the servants in India. It is a very singular government in which every member of the administration wishes to get out of the country, and consequently to have done with the government, as soon as he can, and to whose interest, the day after he has left it and carried his whole fortune with him, it is perfectly indifferent though the whole country was swallowed up by an earthquake.

I mean not, however, by anything which I have here said, to throw any odious imputation upon the general character of the servants of the East India Company, and much less upon that of any particular persons.

It is the system of government, the situation in which they are placed, that I mean to censure; not the character of those who have acted in it. They acted as their situation naturally directed, and they who have clamoured the loudest against them would probably not have acted better themselves. In war and negotiation, the Councils of Madras and Calcutta have upon several occasions conducted themselves with a resolution and decisive wisdom which would have done honour to the senate of Rome in the best days of that republic. The members of those Councils, however, had been bred to professions very different from war and politics. But their situation alone, without education, experience, or even example, seems to have formed in them all at once the great qualities which it required, and to have inspired them both with abilities and virtues which they themselves could not well know that they possessed. If upon some occasions, therefore, it has animated them to actions of magnanimity which could not well have been expected from them, we should not wonder if upon others it has prompted them to exploits of somewhat a different nature.

Such exclusive companies, therefore, are nuisances in every respect; always more or less inconvenient to the countries in which they are established, and destructive to those which have the misfortune to fall under their government.

THE AMERICAN REVOLUTION

THE PRINCIPLES of the American Revolution lie more than a century back in English politics and economic thought.

At the time of the Puritan Revolution and what was its logical consequence, the Bill of Rights, the principle of taxation only with the consent of the taxed was thoroughly established in England. Around the year 1688 men of influence in England were lined up into two great parties that about that time had come to be called Whigs and Tories. The Whigs supported parliament, William of Orange, and a moderate toleration in religion. The Tories still cast sheep's eyes at the exiled House of Stuart, and favored High Church conformity. The House of Hanover owed its succession in 1714 to Whig influence, and the Whigs became so powerful that they split up into factions. Cabinet government came in, the Cabinet being made up of the leaders in parliament and the country or their lieutenants. From 1721 to 1742 Walpole ruled through the support of the Duke of Newcastle and a Whig aristocracy that owned deserted boroughs or openly bought the votes they needed in parliament. Parliament had become but poorly representative and party lines had been largely lost in personal friendships and animosities. The influence of the great Whig houses lasted until the coming of George III. to the throne in 1760.

George III. was determined to regain the power once held by the king. He had the ideas of the Stuarts and looked to the Tories for support. The head of the Whigs in the House of Lords at this time was the Duke of Newcastle, representative of the old Whigs, powerful and corrupt; in the Commons, it was William Pitt, eloquent, a brilliant

statesman, and personally honest, the leader of the new Whigs and the movement for a purer parliament. George III. eventually got rid of the influence of both, and formed a Tory cabinet, first under Lord Bute, then under Lord Grenville.

At this time, as we have noted in the previous volume, the prevailing political economy of Europe was that of the mercantile system. All Europe believed in controlling trade, preserving the balance of exports over imports, favoring home manufactures, hindering those in the colonies, levying import duties, and prohibiting all trade of the colonies save with the home country. The Whigs, or part of them, had tempered this system with the belief that the principle of no taxation without the consent of the taxed, a principle for which the Whigs stood in England, should apply also in America. But the Tories considered the rule of parliament or the king over the colonies to be absolutely autocratic, subject to no restrictions whatever. The majority of the colonists were Whigs and practically all of them—if for no more than selfish reasons—believed they should not be taxed without their own consent. Here lay the first great issue of the Revolution—practically the same issue as had caused the Puritan revolution and eventually written the Bill of Rights.

Restrictions on trade though long borne without questioning their propriety, were many and irksome. The governors were haughty and overbearing. The colonial laws prohibiting slavery had been annulled—they hurt a profitable trade. All commerce had to be carried on in ships built in England or the colonies, and the colonies could not manufacture anything that could be manufactured in England. Sugar, tobacco, cotton, wool, indigo, ginger, dyeing woods, could be exported only to England. All goods imported had to be bought in England and carried in English vessels. Provinces could not sell woolen goods, hats, or ironware to another. In Maine trees over two feet in diameter had to be saved for the royal navy. Astonishing strictures, certainly, but they were built directly on the mercantile theory of political economy then followed by practically every nation in Europe.

Smuggling and the evasion of these laws became common, but the king and the Tory ministry resolved to reinforce them. Government custom-house officials (1761) applied for "Writs of Assistance" empowering them to enter private houses and search for smuggled goods. The protest of James Otis against this revival of a custom of Charles II. was the first formulated protest of the Revolution.

The ministry wanted to establish a garrison of 10,000 men in the colonies, and proposed to have the colonies bear a third of the expense. Lord Grenville brought forward the stamp act to cover the bill. The colonists did not want the soldiers, and strongly protested against the act. It was passed, however, in 1765. The excitement throughout America was intense. Massachusetts sent out a general letter to the colonists protesting against the act. Patrick Henry before the Virginia House of Delegates delivered his famous invective against it. A convention of nine colonies drew up resolutions condemning the act, and all the colonies concurred in these resolutions. The stamp officer at Boston, Oliver, was hung in effigy. The home of Chief Justice Hutchinson at Boston was destroyed. Boxes of stamps were thrown from the ships into the sea. The act could not be enforced without at once precipitating a war, and the question of repeal was taken up in the House of Commons. Lord Grenville was now out of office and Lord Rockingham prime minister. Grenville and Mansfield, among others, spoke for the act, Pitt and Burke, against it. Franklin was examined on the question before the bar of the House of Commons.

Finally, in 1766, the act was repealed, and the joy in the colonies was unbounded.

Six months later the Rockingham ministry gave way to the second of Pitt's, now the Earl of Chatham. The new ministry was composed of all parties. Pitt was taken sick and left the premiership to the Duke of Grafton. During Pitt's sickness Townshend brought in a bill to levy duties on glass, paper and tea imported into the colonies. The duty would amount to little; the act was passed (1767) because it would serve to make the ministry popular in England. Along with the tax went a provision for the establishment by the crown of a civil list in the colonies, with the power to grant salaries and pensions at will, and the suspension of the New York legislature until it should have provided certain supplies for the troops quartered in the city. Townshend died in September, 1767, and was succeeded by a man as much of a Tory as himself, Lord North.

In America the opposition blazed forth once more. Dickinson of Pennsylvania and Samuel Adams of Massachusetts wrote tellingly against the new act. Massachusetts again invited a convention of the colonies. Troops quartered in Boston aggravated the discontent. Otis was assaulted by Robinson, a commissioner of customs. Matters gradually reached a climax. The night of March 5, 1770, a crowd began

reviling the soldiers and snowballing them. A riot seemed imminent, when the soldiers were recalled into the barracks. The alarm of fire brought still a larger crowd to the scene of trouble. The sentinel was threatened. Captain Preston and seven men went to his aid, and lined up facing the crowd. The mob threw snow into their faces and dared them to fire. All at once, without orders, so it is declared, seven of the muskets were discharged, killing four men and wounding seven others, two of them fatally. Preston and his men were arrested. The city, through Samuel Adams, demanded the removal of the regiments, and they were sent to Castle William. The soldiers were afterwards, when tried, defended by John Adams and Josiah Quincy. All but two were acquitted, and these were given a light punishment for manslaughter.

Lord North, a thorough Tory, was now prime minister. The colonies had resolved to import nothing until the taxes were repealed. In April all these last taxes were done away with save on tea, and New York merchants sent orders for everything except tea. This divided the colonies. Lord North for a time assisted the division by local quarrels. In 1771 in North Carolina an attempt to revive excessive fees for officers, really an indirect tax, led to a pitched battle at Alamance, but the colonial militia assisted the governor, and the event did not have the significance it might have had. In Rhode Island the sloop Gaspee, which had been patrolling thereabouts for smugglers, was burnt to the water's edge.

The imported tea at Charleston had to be stored in damp cellars, where it spoiled. At Philadelphia and New York the tea-ships were sent home. At last at Boston, a party of men dressed up as Indians boarded the vessels and threw the tea into the bay. Parliament retaliated. The port of Boston was closed. Gage was made governor of Massachusetts.

Resistance became more active. A continental congress was called, September 5, 1774, that declared obedience not due to the recent acts of parliament. The colonists began to gather stores of arms and provisions. Gage heard that there was a supply at Concord, and sent out eight hundred men to destroy them. On the way at Lexington they came upon a company of minute men just gathering. Pitcairn ordered them to disperse. They did not obey. The troops began to drive them away and in the skirmish seven Colonists were killed. The whole region took up arms, and when the English returned from Concord, they were attacked from all sides. Gage had to send out reinforcements

from Boston, and as it was, they lost three hundred men. This was the first pitched battle of the Revolution.

Then followed Bunker Hill, Ticonderoga, Quebec, the evacuation of Boston, and the attack on Fort Moultrie.

In the meantime the sentiments of the colonists had passed from passive to active resistance, and was passing from active resistance to independence. The colonists split into two factions. The supporters of the king were called Tories and had practically the same ideas of the divine rights of the king and non-resistance which the English Tories had. The great majority of the colonists had much the same principles as the English Whigs. They believed in the sovereignty of the people, and their right to resistance whenever the king failed to govern as he should. The ideas of Locke, and the Bill of Rights, of Montesquieu and Rousseau had an enormous, though silent, influence in developing the idea of independence.

In England the new Whig faction, led by the Earl of Chatham, steadily took the side of the revolting colonists, because the colonists stood for the same principles as themselves. The old Whig faction, led by Newcastle, Rockingham, Burke, and later Fox, were also for them, partly on principle, partly for policy. The king and the English Tories, however, were strong enough to carry on the war.

The idea of independence grew slowly. It is said that as far back as 1768 Samuel Adams seems to have dreamed of independence, but when the Continental Congress met September 5, 1774, the idea was still far from strong. Mecklenburg county, North Carolina, inhabited by Scotch-Irish, first declared for an independent government until parliament should recede from its claims (May 31, 1775). New governments were soon formed in the other colonies. North Carolina in March, 1776, sent instructions to her representatives declaring for absolute independence. Virginia followed May 6. June 8 Richard Henry Lee of Virginia moved "that these United Colonies are, and of right ought to be, free and independent States." John Adams seconded the motion.

There was considerable debate on the resolution, Dickinson and Wilson of Pennsylvania, and Livingston of New York thinking it too early for so bold a step. The question was referred back to the colonies for instructions. Connecticut and New Hampshire declared at once in favor of the declaration. In New Jersey, Governor Franklin, Benjamin Franklin's son, at first held the legislature for the king, but a new pro-

vincial congress was chosen and the motion for independence indorsed. The Quakers of Pennsylvania also hesitated, but the sense of their close connection with the other colonies finally carried Pennsylvania for the new movement (June 18).

Delaware took the same action June 14. Maryland had few grievances, but felt that the colonies were bound together and authorized her delegates to concur in the motion. New York was under the guns of the British fleet, and the Tories were strong enough to delay instructions until after the declaration was passed. On the first vote New York was excused from casting a ballot, Delaware was tied, Pennsylvania and South Carolina voted nay, the other nine colonies voted for independence (July 1, 1776). The next day the vote was made unanimous and the committee consisting of Jefferson, John Adams, Franklin, Roger Sherman, and Livingston, which had been appointed three weeks before to draw up the formal declaration, made its report. The declaration had been written by Jefferson and was only made a little more concise by the other members of the committee and in the committee of the whole before it was adopted July 4, 1776.

The Declaration of Independence starts with the statement of the natural rights of man. The idea may be traced back through Rousseau, Locke, and Puffindorf to Roman law. Then follows the Declaration's theory of government, basing it on the social contract idea and putting it in much the same way as did Locke and the English Whigs. The strictures on the king that follow are to show how he has broken the social contract and hence justified the movement for independence by the colonies.

Thus a new nation was brought into the world. It was the result of the struggle of such modern ideas as no taxation without the consent of the taxed, the sovereignty of the people, and free trade, against the theory of the divine right of kings, arbitrary rule, and the mercantile system of political economy.

JAMES OTIS

James Otis was born in West Barnstable, Mass., February 5, 1725. He graduated at Harvard in 1743 and was admitted to the bar in 1746. His speech against the Writs of Assistance (1761) was the first trumpet of the Revolution. He was attacked by Robinson, commissioner of customs in Boston in 1769, and rendered insane at times from the blow. He was killed by lightning in 1783.

JOHN ADAMS' ACCOUNT OF THE SPEECH BY OTIS ON THE WRITS OF ASSISTANCE

The king sent instructions to his custom-house officers to carry the acts of trade and navigation into strict execution. An inferior officer of the customs, in Salem, whose name was Cockle, petitioned the justices of the superior court, at their session in November (1760) for the county of Essex, to grant him writs of assistants, according to some provision in one of the acts of trade which had not been executed, to authorize him to break open ships, shops, cellars, houses, etc., to search for prohibited goods and merchandises, on which duties had not been paid. Some objection was made to this motion; and Mr. Stephen Sewall, who was then Chief Justice of that court, and a zealous friend of liberty, expressed some doubts of the legality and constitutionality of the writ, and of the power of the court to grant it. The court ordered the question to be argued at Boston, in February term, 1761. In the meantime Mr. Sewall died; and Mr. Hutchinson, then lieutenant-governor, a counsellor and judge of probate for the county of Suffolk, etc., was appointed, in his stead, Chief Justice. The first vacancy on that bench had been promised, in two former administrations, to Colonel James Otis of Barnstable. This event produced a dissension between Hutchinson and Otis, which had consequences of great moment.

In February, Mr. James Otis, Jr., a lawyer of Boston, and a son of Colonel Otis of Barnstable, appeared, at the request of the merchants

in Boston, in opposition to the writ. This gentleman's reputation as a scholar, a lawyer, a reasoner, and a man of spirit, was then very high. Mr. Putnam, while I was with him, had often said to me that Otis was by far the most able, manly, and commanding character of his age at the bar; and this appeared to me, in Boston, to be the unanimous opinion of judges, lawyers, and the public. Mr. Oxenbridge Thacher, whose amiable manners and pure principles united to a very easy and musical eloquence made him very popular, was united with Otis; and Mr. Gridley alone appeared for Cockle, the petitioner, in support of the writ. The argument continued several days in the council chamber, and the question was analyzed with great acuteness and all the learning which could be connected with the subject. I took a few minutes in a very careless manner, which, by some means, fell into the hands of Mr. Minot, who has inserted them in his history. I was much more attentive to the information and the eloquence of the speaker than to my minutes, and too much alarmed at the prospect that was opened before me to care much about writing a report of the controversy. The views of the English government towards the colonies, and the views of the colonies towards the English government, from the first of our history to that time, appeared to me to have been directly in opposition to each other, and were now, by the imprudence of administration, brought to a collision. England, proud of its power, and holding us in contempt, would never give up its pretensions. The Americans, devoutly attached to their liberties, would never submit, at least without an entire devastation of the country and a general destruction of their lives. A contest appeared to me to be opened, to which I could foresee no end, and which would render my life a burden, and property, industry, and everything insecure. There was no alternative left but to take the side which appeared to be just, to march intrepidly forward in the right path, to trust in Providence for the protection of truth and right, and to die with a good conscience and a decent grace, if that trial should become indispensable.

The Speech

May it please Your Honors, I was desired by one of the Court to look into the books, and consider the question now before them concerning writs of assistance. I have accordingly considered it, and now appear, not only in obedience to your order, but likewise in behalf of the inhabitants of this town, who have presented another petition, and out of

regard to the liberties of the subject. And I take this opportunity to declare, that whether under a fee or not (for in such a cause as this I despise a fee) I will to my dying day oppose with all the powers and faculties God has given me, all such instruments of slavery on the one hand, and villainy on the other, as this writ of assistance is.

It appears to me the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law-book. I must, therefore, beg your Honors' patience and attention to the whole range of an argument, that may perhaps appear uncommon in many things, as well as to points of learning that are more remote and unusual; that the whole tendency of my design may the more easily be perceived, the conclusions better discerned, and the force of them be better felt. I shall not think much of my pains in this cause, as I engaged in it from principle. I was solicited to argue this case as Advocate-General; and because I would not, I have been charged with desertion from my office. To this charge I can give a very sufficient answer. I renounced that office, and I argue this cause, from the same principle; and I argue it with the greater pleasure, as it is in favor of British liberty, at a time when we hear the greatest monarch upon earth declaring from his throne that he glories in the name of Briton, and that the privileges of his people are dearer to him than the most valued prerogatives of his crown; and as it is in opposition to a kind of power, the exercise of which, in former periods of English history, cost one king of England his head, and another his throne. I have taken more pains in this cause than I ever will take again, although my engaging in this and another popular cause has raised much resentment. But I think I can sincerely declare, that I cheerfully submit myself to every odious name for conscience' sake; and from my soul I despise all those whose guilt, malice, or folly has made them my foes. Let the consequences be what they will, I am determined to proceed. The only principles of public conduct that are worthy of a gentleman or a man, are to sacrifice estate, ease, health, and applause, and even life, to the sacred calls of his country. These manly sentiments, in private life, make the good citizen; in public life, the patriot and the hero. I do not say, that when brought to the test, I shall be invincible. I pray God I may never be brought to the melancholy trial; but if ever I should, it will be then known how far I can reduce to practice principles which I know to be founded in truth. In the meantime I will proceed to the subject of this writ.

In the first place, may it please your Honors, I will admit that writs of one kind may be legal; that is, special writs, directed to special officers, and to search certain houses, etc., specially set forth in the writ, may be granted by the Court of Exchequer at home, upon oath made before the Lord Treasurer by the person who asks it, that he suspects such goods to be concealed in those very places he desires to search. The act of 14 Charles II. which Mr. Gridley mentions, proves this. And in this light the writ appears like a warrant from a Justice of the Peace to search for stolen goods. Your Honors will find in the old books concerning the office of a Justice of the Peace, precedents of general warrants to search suspected houses. But in more modern books you will find only special warrants to search such and such houses specially named, in which the complainant has before sworn that he suspects his goods are concealed; and you will find it adjudged that special warrants only are legal. In the same manner I rely on it, that the writ prayed for in this petition, being general, is illegal. It is a power that places the liberty of every man in the hands of every petty officer. I say I admit that special writs of assistance, to search special places, may be granted to certain persons on oath; but I deny that the writ now prayed for can be granted, for I beg leave to make some observations on the writ itself, before I proceed to other acts of Parliament. In the first place, the writ is universal, being directed "to all and singular Justices, Sheriffs, Constables, and all other officers and subjects;" so, that, in short, it is directed to every subject in the King's dominions. Every one with this writ may be a tyrant; if this commission be legal, a tyrant in a legal manner also may control, imprison, or murder anyone within the realm. In the next place, it is perpetual; there is no return. A man is accountable to no person for his doings. Every man may reign secure in his petty tyranny, and spread terror and desolation around him. In the third place, a person with this writ, in the daytime, may enter all houses, shops, etc., at will, and command all to assist him. Fourthly, by this writ, not only deputies, etc., but even their menial servants, are allowed to lord it over us. Now one of the most essential branches of English liberty is the freedom of one's house. A man's house is his castle; and whilst he is quiet, he is as well guarded as a prince in his castle. This writ, if it should be declared legal, would totally annihilate this privilege. Custom-house officers may enter our houses, when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way; and

whether they break through malice or revenge, no man, no court, can inquire. Bare suspicion without oath is sufficient. This wanton exercise of this power is not a chimerical suggestion of a heated brain. I will mention some facts. Mr. Pew had one of these writs, and when Mr. Ware succeeded him, he indorsed this writ over to Mr. Ware; so that these writs are negotiable from one officer to another; and so your Honors have no opportunity of judging the persons to whom this vast power is delegated. Another instance is this: Mr. Justice Walley had called this same Mr. Ware before him, by a constable, to answer for a breach of Sabbath-day acts, or that of profane swearing. As soon as he had finished, Mr. Ware asked him if he had done. He replied, Yes. Well, then, said Mr. Ware, I will show you a little of my power. I command you to permit me to search your house for uncustomed goods. And went on to search his house from the garret to the cellar; and then served the constable in the same manner. But to show another absurdity in this writ; if it should be established, I insist upon it, every person by the 14 Charles II. has this power as well as custom-house officers. The words are, "It shall be lawful for any person or persons authorized," etc. What a scene does this open! Every man, prompted by revenge, ill humor, or wantonness, to inspect the inside of his neighbor's house, may get a writ of assistance. Others will ask it from self-defense; one arbitrary exertion will provoke another, until society be involved in tumult and in blood.

Again, these writs are not returned. Writs in their nature are temporary things. When the purposes for which they are issued are answered, they exist no more; but these live forever; no one can be called to account. Thus reason and the constitution are both against this writ. Let us see what authority there is for it. Not more than one instance can be found of it in all our law-books; and that was in the zenith of arbitrary power, namely, in the reign of Charles II., when star-chamber powers were pushed to extremity by some ignorant clerk of the exchequer. But had this writ been in any book whatever, it would have been illegal. All precedents are under the control of the principles of law. Lord Talbot says it is better to observe these than any precedents, though in the House of Lords, the last resort of the subject. No Acts of Parliament can establish such a writ; though it should be made in the very words of the petition, it would be void. An act against the constitution is void. (*vid* Viner.) But these prove no more than what I before observed, that special writs may be granted on oath and

probable suspicion. The act of 7 and 8 William III. that the officers of the plantations shall have the same powers, etc., is confined to this sense; that an officer should show probable ground; should take his oath of it; should do this before a magistrate; and that such magistrate, if he think proper, should issue a special warrant to a constable to search the places. That of 6 Anne can prove no more.—Adams, II.

OTIS'S "RIGHTS OF THE BRITISH COLONIES"

In 1764 was published, in Boston, "The Rights of the British Colonies Asserted and Proved," by James Otis, Esq. This work was read in the House of Representatives of Massachusetts, in manuscript, in 1764, and, though not ordered by them to be published, it was printed with their knowledge. In it these propositions are asserted as fundamental:

1. That the supreme and subordinate powers of legislation should be free and sacred in the hands where the community have once rightfully placed them.

2. The supreme, national legislative cannot be altered justly till the commonwealth is dissolved, nor a subordinate legislative taken away without forfeiture or other good cause. Nor then can the subjects in the subordinate government be reduced to a state of slavery, and subject to the despotic rule of others.

3. No legislative, supreme or subordinate, has a right to make itself arbitrary.

4. The supreme legislative cannot justly assume a power of ruling by *extempore* arbitrary decrees, but is bound to dispense justice by known, settled rules, and by duly authorized, independent judges.

5. The supreme power cannot take from any man any part of his property, without his consent in person, or by representation.

6. The legislative cannot transfer the power of making laws to any other hands.

These are their bounds which, by God and nature, are fixed; hitherto have they a right to come, and no further.

1. To govern by stated laws.

2. Those laws should have no other end ultimately but the good of the people.

3. Taxes are not to be laid on the people, but by their consent in person, or by deputation.

4. Their whole power is not transferable.

These are the first principles of law and justice, and the great barriers of a free State, and of the British Constitution in particular. I ask, I want no more!

This work, which in 1764 was as familiar to me as my alphabet, I had not seen for fifty-four years, and should never have seen it again, if your Sketches, for which I again thank you, had not aroused me. With some pains, and as a great favour, I have obtained the loan of it for a short time. In page 73 is an elaborate and learned demonstration, that all acts of Parliament, laying taxes on the colonies, without their consent, are void.—John Adams, Works, X.

SAMUEL ADAMS

Samuel Adams was born in Boston, September 27, 1722. He was the second cousin of John Adams. In 1740 he graduated from Harvard College. He tried being a merchant, but was unsuccessful. He was elected to represent Boston in the Massachusetts General Court in 1765, and immediately took strong ground on the side of the colonies.

He was a fiery leader of the people and one of the first to dream of so radical a thing as independence. His "Vindication of Boston" had a great influence, but is preserved only in a fragment in John Adams' writings. Samuel Adams signed the Declaration of Independence, and after long hesitancy supported the new national constitution. He was twice governor of his state. He died October 2, 1803.

INSTRUCTIONS TO THE BOSTON DELEGATES

In an appendix to this work is a copy of instructions, given by the city of Boston at their annual meeting, in May, 1764, to their representatives, Royal Tyler, James Otis, Thomas Cushing, and Oxenbridge Thacher, Esqrs. These instructions were drawn by Samuel Adams,

who was one of those appointed by the town for that purpose. These instructions are a sample of that simplicity, purity, and harmony of style, which distinguished all the productions of Mr. Adams' pen. I wish I could transcribe the whole; but the paragraph most directly to the present purpose is the following:

"But what still heightens our apprehensions is, that these unexpected proceedings may be preparatory to new taxations upon us. For, if our trade may be taxed, why not our lands? Why not the produce of our lands, and everything we possess or make use of? This, we apprehend, annihilates our charter right to govern and tax ourselves. It strikes at our British privileges, which, as we have never forfeited them, we hold in common with our fellow-subjects, who are natives of Britain. If taxes are laid upon us in any shape, without our having a legal representation where they are laid, are we not reduced from the character of free subjects to the miserable state of tributary slaves?"—John Adams, X., 293.

PATRICK HENRY

Patrick Henry was born at Studley, Virginia, May 29, 1736. He did little studying until more than ten years old, then with the help of his uncle and father learned a little Latin and Greek. He tried to be a country tradesman at sixteen, but failed. At eighteen he married the daughter of a small tavern keeper and strove to get a living off a small farm, but this, again, was a failure. He tried merchandise again and failed once more. In 1760 he was admitted to the bar after six weeks study, and at once had a good practice. His speech for the people in the "Parsons' Cause" in 1764 won him wide recognition. In 1765 in the Virginia House of Burgesses, he drafted his famous resolutions against the stamp act and made the speech, now lost, which contained the famous passage, "Cæsar had his Brutus; Charles the First his Cromwell; and George the Third" [a pause, while the house and speaker cried "Treason! Treason!"] "may profit by their example. If this be treason, make the most of it."

He was the first speaker of the General Congress in 1774. In 1775 he made his famous speech on the state of defense of the colonies.

He was twice governor of Virginia. He opposed the ratification of the new constitution until personal rights should be secured, and the struggle he led against it largely resulted in the "Bill of Rights" in the first amendments. He believed in the indestructibility of the Union when once formed, and made an enemy of Jefferson by opposing the Kentucky and Virginia resolutions. He died in 1799.

WIRT'S ACCOUNT OF THE VIRGINIA RESOLUTIONS

Mr. Henry was elected with express reference to an opposition to the stamp act. It was not, however, expected by his constituents, or meditated by himself, that he should lead the opposition. The addresses of the preceding year, made to the king, lords and commons, in which so strong a truth had been stated, as that the stamp act, if persisted in, would reduce the colony to a state of slavery, founded a hope that those who had commenced the opposition by remonstrance, would continue to give it the *eclat* of their high names, by resistance of a bolder character, if bolder should be necessary. Mr. Henry waited, therefore, to file in under the first champion that should raise the banner of colonial liberty. In the meantime another subject unexpectedly occurred to call him up, and it was on this other that he made his *debut* in the house.

The incident has been stated to me in the following terms by a gentleman who heard the debate: "The gentlemen of this country had, at that time, become deeply involved in that state of indebtment which has since ended in so general a crush of their small fortunes. Mr. Robinson, the speaker, was also the treasurer, an officer always chosen by the assembly. He was an excellent man, liberal, friendly, and rich. He had been drawn in to lend, on his own account, great sums of money to persons of this description; and especially those who were of the assembly. He used freely for this purpose the public money, confiding for its replacement in his own means, and the securities he had taken on those loans. About this time, however, he became sensible that his deficit to the public was become so enormous, as that a discovery must soon take place, for as yet the public had no suspicion of it. He devised, therefore, with his friends in the assembly, a plan for a public loan office, to a certain amount, from which moneys might be lent on public account, and

on good landed security to individuals. I find, in Royle's Virginia Gazette of the 17th of May, 1765, this proposition for a loan office presented, its advantages detailed, and the plan explained. It seems to have been done by a borrowing member, from the feeling with which the motives are expressed, and to have been preparatory to the intended motion. Between the 17th and 30th (the latter being the date of Mr. Henry's resolutions on the stamp act), the motion for a loan office was accordingly brought forward in the house of burgesses, and had it succeeded, the debts due to Robinson on these loans would have been transferred to the public, and his deficit thus completely covered. This state of things, however, was not yet known: but Mr. Henry attacked the scheme on other general grounds, in that style of bold, grand, and overwhelming eloquence for which he became so justly celebrated afterward. I had been intimate with him from the years 1759-60, and felt an interest in what concerned him; and I can never forget a particular exclamation of his in the debate, which electrified his hearers. It had been urged that, from certain unhappy circumstances of the colony, men of substantial property had contracted debts, which, if exacted suddenly, must ruin them and their families, but with a little indulgence of time, might be paid with ease. 'What, sir!' exclaimed Mr. Henry, in animadverting on this, 'is it proposed, then, to reclaim the spendthrift from his dissipation and extravagance, by filling his pockets with money?' These expressions are indelibly impressed on my memory. He laid open with so much energy the spirit of favouritism, on which the proposition was founded, and the abuses to which it would lead, that it was crushed in its birth. He carried with him all the members of the upper counties, and left a minority composed merely of the aristocracy of the country. From this time his popularity swelled apace; and Mr. Robinson dying the year afterward, his deficit was brought to light, and discovered the true object of the proposition."

The exclamation above quoted by my correspondent as having electrified Mr. Henry's hearers, is a striking specimen of one of his great excellences in speaking; which was, the power of condensing the substance of a long argument into one short pithy question. The hearer was surprised in finding himself brought so suddenly and so clearly to a just conclusion. He could scarcely conceive how it was effected; and could not fail to regard, with high admiration, the power of that intellect, which could come at its ends by so short a course; and work out its purposes with the quickness and certainty of magic.

The aristocracy were startled at such a phenomenon from the plebeian ranks. They could not be otherwise than indignant at the presumption of an obscure and unpolished rustic, who, without asking the support or countenance of any patron among themselves, stood upon his own ground, and bearded them even in their den. That this rustic should have been able, too, by his single strength, to baffle their whole phalanx and put it to rout, was a mortification too humiliating to be easily borne. They affected to ridicule his vicious and depraved pronunciation, the homespun coarseness of his language, and his hypocritical canting in relation to his humility and ignorance. But they could not help admiring and envying his wonderful gifts; that thorough knowledge of the human heart which he displayed; that power of throwing his reasoning into short and clear aphorisms, which, desultory as they were, supplied, in a great degree, the place of method and logic; that imagination so copious, poetic, and sublime; the irresistible power with which he caused every passion to rise at his bidding; and all the rugged might and majesty of his eloquence. From this moment he had no friends on the aristocratic side of the house. They looked upon him with envy and with terror. They were forced at length to praise his genius; but that praise was wrung from them with painful reluctance. They would have denied it if they could. They would have overshadowed it; and did at first try to overshadow it, by magnifying his defects; but it would have been as easy for them to have eclipsed the splendour of the sun, by pointing to its spots.

If, however, he had lost one side of the house by his undaunted manner of blowing up this aristocratic project, he had made the other side his fast friends. They had listened with admiration, unmixed with envy. Their souls had been struck with amazement and rapture, and thrilled with unspeakable sensations which they had never felt before. The man, too, who had produced these effects, was one of themselves. This was balm to them; for there is a wide difference between that distant admiration, which we pay as a tax, due to long-standing merit, in superior rank, and that throbbing applause which rushes spontaneously and warm from the heart, toward a new man and an equal. There is always something of latent repining, approaching to resentment, mingled with that respect which is exacted from us by rank; and we feel a secret gratification in seeing it humbled. In the same proportion, we love the man who has given us this gratification, and avenged, as it were, our own past indignities. Such was precisely the state of feeling

which Mr. Henry produced, on the present occasion. The lower ranks of the house beheld and heard him with gratitude and veneration. They regarded him as a sturdy and wide-spreading oak, beneath whose cool and refreshing shade they might take refuge from those beams of aristocracy that had played upon them so long, with rather an unpleasant heat.

After this victorious sally upon their party, the former leaders of the house were not very well disposed to look with a favourable eye on any proposition which he should make. They had less idea of contributing to foster the popularity and pamper the power of a man, who seemed born to be their scourge, and to drag down their ancient honours to the dust. It was in this unpropitious state of things, after having waited in vain for some step to be taken on the other side of the house, and when the session was within three days of its expected close, that Mr. Henry introduced his celebrated resolutions on the stamp act.

I will not withhold from the reader a note of this transaction from the pen of Mr. Henry himself. It is a curiosity, and highly worthy of preservation. After his death, there was found among his papers one sealed, and thus endorsed: "Enclosed are the resolutions of the Virginia assembly in 1765, concerning the stamp act. Let my executors open this paper." Within was found the following copy of the resolutions, in Mr. Henry's handwriting:—

"Resolved, That the first adventurers and settlers of this, his Majesty's colony and dominion, brought with them, and transmitted to their posterity, and all other his Majesty's subject, since inhabiting in this, his Majesty's said colony, all the privileges, franchises, and immunities, that have at any time been held, enjoyed, and possessed by the people of Great Britain.

"Resolved, That by two royal charters, granted by King James the First, the colonists, aforesaid, are declared entitled to all the privileges, liberties, and immunities of denizens and natural-born subjects, to all intents and purposes, as if they had been abiding and born within the realm of England.

"Resolved, That the taxation of the people by themselves, or by persons chosen by themselves to represent them, who can only know what taxes the people are able to bear, and the easiest mode of raising them, and are equally affected by such taxes themselves, is the distinguishing characteristic of British freedom, and without which the ancient constitution cannot subsist.

"Resolved, That his majesty's liege people of this most ancient colony, have uninterruptedly enjoyed the right of being thus governed by their own assembly, in the article of their taxes and internal police, and that the same hath never been forfeited, or any other way given up, but hath been constantly recognized by the king and people of Great Britain.

"Resolved, therefore, That the general assembly of this colony have the sole right and power to lay taxes and impositions upon the inhabitants of this colony; and that every attempt to vest such power in any person or persons whatsoever, other than the general assembly aforesaid, has a manifest tendency to destroy British as well as American freedom."

On the back of the paper containing those resolutions, is the following endorsement, which is also in the handwriting of Mr. Henry himself: "The within resolutions passed the house of burgesses in May, 1765. They formed the first opposition to the stamp act, and the scheme of taxing America by the British Parliament. All the colonies, either through fear, or want of opportunity to form an opposition, or from influence of some kind or other, had remained silent. I had been for the first time elected a burgess, a few days before, was young, inexperienced, unacquainted with the forms of the house, and the members that composed it. Finding the men of weight averse to opposition, and the commencement of the tax at hand, and that no person was likely to step forth, I determined to venture, and alone, unadvised, and unassisted, on a blank leaf of an old law-book wrote the within. Upon offering them to the house, violent debates ensued. Many threats were uttered, and much abuse cast on me, by the party for submission. After a long and warm contest, the resolutions passed by a very small majority, perhaps of one or two only. The alarm spread throughout America with astonishing quickness, and the ministerial party were overwhelmed. The great point of resistance to British taxation was universally established in the colonies. This brought on the war, which finally separated the two countries, and gave independence to ours. Whether this will prove a blessing or a curse will depend upon the use our people make of the blessings which a gracious God hath bestowed upon us. If they are wise, they will be great and happy. If they are of a contrary character, they will be miserable. Righteousness alone can exalt them as a nation.

"Reader! whoever thou art, remember this; and in thy sphere practice virtue thyself, and encourage it in others.—P. Henry."

FRANKLIN

EXAMINATION ON THE STAMP ACT

Q. WHAT was the temper of America towards Great Britain before the year 1763?

A. The best in the world. They submitted willingly to the government of the crown, and paid, in their courts, obedience to the acts of Parliament. Numerous as the people are in the several old provinces, they cost you nothing in forts, citadels, garrisons, or armies, to keep them in subjection. They were governed by this country at the expense only of a little pen, ink, and paper; they were led by a thread. They had not only a respect, but an affection for Great Britain; for its laws, its customs and manners, and even a fondness for its fashions, that greatly increased the commerce. Natives of Britain were always treated with particular regard; to be an Old-England man was, of itself, a character of some respect, and gave a kind of rank among us.

Q. And what is their temper now?

A. O, very much altered.

Q. Did you ever hear the authority of Parliament to make laws for America questioned till lately?

A. The authority of Parliament was allowed to be valid in all laws, except such as should lay internal taxes. It was never disputed in laying duties to regulate commerce.

Q. In what proportion hath population increased in America?

A. I think the inhabitants of all the provinces together, taken at a medium, double in about twenty-five years. But their demand for British manufactures increases much faster; as the consumption is not merely in proportion to their numbers, but grows with the growing abilities of the same numbers to pay for them. In 1723, the whole importation from Britain to Pennsylvania was about fifteen thousand pounds sterling; it is now near half a million.

Q. In what light did the people of America use to consider the Parliament of Great Britain?

A. They considered the Parliament as the great bulwark and security of their liberties and privileges, and always spoke of it with the utmost respect and veneration. Arbitrary ministers, they thought, might possibly, at times, attempt to oppress them; but they relied on it, that the Parliament, on application, would always give redress. They remembered, with gratitude, a strong instance of this, when a bill was brought into Parliament, with a clause to make royal instructions laws in the colonies, which the House of Commons would not pass, and it was thrown out.

Q. And have they not still the same respect for Parliament?

A. No, it is greatly lessened.

Q. To what cause is that owing?

A. To a concurrence of causes; the restraints lately laid on their trade, by which the bringing of foreign gold and silver into the colonies was prevented; the prohibition of making paper money among themselves, and then demanding a new and heavy tax by stamps, taking away, at the same time, trials by juries, and refusing to receive and hear their humble petitions.

Q. Don't you think they would submit to the Stamp Act, if it was modified, the obnoxious parts taken out, and the duty reduced to some particulars of small moment?

A. No, they will never submit to it.

Q. What do you think is the reason that the people in America increase faster than in England.

A. Because they marry younger, and more generally.

Q. Why so?

A. Because any young couple, that are industrious, may easily obtain land of their own, on which they can raise a family.

Q. Are not the lower ranks of people more at their ease in America than in England?

A. They may be so, if they are sober and diligent, as they are better paid for their labor.

Q. What is your opinion of a future tax, imposed on the same principle with that of the Stamp Act? How would the Americans receive it?

A. Just as they do this. They would not pay it.

Q. Have not you heard of the resolutions of this House, and of the House of Lords, asserting the right of Parliament relating to America, including a power to tax the people there?

A. Yes, I have heard of such resolutions.

Q. What will be the opinion of the Americans on those resolutions?

A. They will think them unconstitutional and unjust.

Q. Was it an opinion in America before 1763, that the Parliament had no right to lay taxes and duties there?

A. I never heard any objection to the right of laying duties to regulate commerce; but a right to lay internal taxes was never supposed to be in Parliament, as we are not represented there.

Q. On what do you found your opinion, that the people in America made any such distinction?

A. I know that whenever the subject has occurred in conversation where I have been present, it has appeared to be the opinion of everyone that we could not be taxed by a Parliament wherein we were not represented. But the payment of duties laid by an act of Parliament, as regulations of commerce, was never disputed.

Q. But can you name any act of assembly, or public act of any of your governments, that made such distinction?

A. I do not know that there was any; I think there was never an occasion to make any such act, till now that you have attempted to tax us, that has occasioned resolutions of assembly, declaring the distinction, in which I think every assembly on the continent, and every member in every assembly, have been unanimous.

Q. What, then, could occasion conversations on that subject before that time?

A. There was in 1754 a proposition made (I think it came from hence) that in case of a war, which was then apprehended, the governors of the colonies should meet, and order the levying of troops, the building of forts, and taking every other necessary measure for the general defense; and should draw on the treasury here for the sums expended, which were afterwards to be raised in the colonies by a general tax, to be laid on them by act of Parliament. This occasioned a good deal of conversation on the subject; and the general opinion was, that the Parliament neither would nor could lay any tax on us, till we were duly represented in Parliament; because it was not just, nor agreeable to the nature of an English constitution.

Q. Don't you know there was a time in New York, when it was under consideration to make an application to Parliament to lay taxes on that colony, upon a deficiency arising from the assembly's refusing or

neglecting to raise the necessary supplies for the support of the civil government?

A. I never heard of it.

Q. There was such an application under consideration in New York; and do you apprehend they could suppose the right of Parliament to lay a tax in America was only local, and confined to the case of a deficiency in a particular colony, by a refusal of its assembly to raise the necessary supplies?

A. They could not suppose such a case, as that the assembly would not raise the necessary supplies to support its own government. An assembly that would refuse it must want common sense; which cannot be supposed. I think there was never any such case at New York, and that it must be a misrepresentation, or the fact must be misunderstood. I know there have been some attempts, by ministerial instructions from hence, to oblige the assemblies to settle permanent salaries on governors, which they wisely refused to do; but I believe no assembly of New York, or any other colony, ever refused duly to support government by proper allowances, from time to time, to public officers.

Q. But in case a governor, acting by instruction, should call on an assembly to raise the necessary supplies, and the assembly should refuse to do it, do you not think it would then be for the good of the people of the colony, as well as necessary to government, that the Parliament should tax them?

A. I do not think it would be necessary. If an assembly could possibly be so absurd, as to refuse raising the supplies requisite for the maintenance of government among them, they could not long remain in such a situation; the disorders and confusion occasioned by it must soon bring them to reason.

Q. If it should not, ought not the right to be in Great Britain of applying a remedy?

A. A right, only to be used in such a case, I should have no objection to; supposing it to be used merely for the good of the people of the colony.

Q. But who is to judge of that, Britain or the colony?

A. Those that feel can best judge.

Q. You say the colonies have always submitted to external taxes, and object to the right of Parliament only in laying internal taxes; now can you show, that there is any kind of difference between the two taxes to the colony on which they may be laid?

A. I think the difference is very great. An external tax is a duty laid on commodities imported; that duty is added to the first cost and other charges on the commodity, and, when it is offered for sale, makes a part of the price. If the people do not like it at that price, they refuse it; they are not obliged to pay it. But an internal tax is forced from the people without their consent, if not laid by their own representatives. The Stamp Act says we shall have no commerce, make no exchange of property with each other, neither purchase, nor grant, nor recover debts; we shall neither marry nor make our wills, unless we pay such and such sums; and thus it is intended to extort money from us, or ruin us by the consequences of refusing to pay it.

Q. But supposing the external tax or duty to be laid on the necessaries of life, imported into your colony, will not that be the same thing in its effects as an internal tax?

A. I do not know a single article imported into the northern colonies, but what they can either do without, or make themselves.

Q. If the Stamp Act should be repealed, would not the Americans think they could oblige the Parliament to repeal every external tax law now in force?

A. It is hard to answer questions of what people at such a distance will think.

Q. But what do you imagine they will think were the motives of repealing the act?

A. I suppose they will think that it was repealed from a conviction of its inexpediency; and they will rely upon it that, while the same inexpediency subsists, you will never attempt to make such another.

Q. What do you mean by its inexpediency?

A. I mean its inexpediency on several accounts; the poverty and inability of those who were to pay the tax, the general discontent it has occasioned, and the impracticability of enforcing it.

Q. If the act should be repealed, and the legislature should show its resentment to the opposers of the Stamp Act, would the colonies acquiesce in the authority of the legislature? What is your opinion they would do?

A. I don't doubt at all, that if the legislature repeal the Stamp Act, the colonies will acquiesce in the authority.

Q. But if the legislature should see fit to ascertain its right to lay taxes, by any act laying a small tax, contrary to their opinion, would they submit to pay the tax?

A. The proceedings of the people in America have been considered too much together. The proceedings of the assemblies have been very different from those of the mobs, and should be distinguished, as having no connection with each other. The assemblies have only peaceably resolved what they take to be their rights; they have taken no measures for opposition by force, they have not built a fort, raised a man, or provided a grain of ammunition, in order to such opposition. The ringleaders of riots, they think, ought to be punished; they would punish them themselves if they could. Every sober, sensible man would wish to see rioters punished, as, otherwise, peaceable people have no security of person or estate; but as to an internal tax, how small soever, laid by the legislature here on the people there, while they have no representatives in this legislature, I think it will never be submitted to; they will oppose it to the last; they do not consider it as at all necessary for you to raise money on them by your taxes; because they are, and always have been, ready to raise money by taxes among themselves, and to grant large sums, equal to their abilities, upon requisition from the crown.

They have not only granted equal to their abilities, but during all the last war, they granted far beyond their abilities, and beyond their proportion with this country (you yourselves being judges), to the amount of many hundred thousand pounds; and this they did freely and readily, only on a sort of promise, from the Secretary of State, that it should be recommended to Parliament to make them compensation. It was accordingly recommended to Parliament, in the most honorable manner for them. America has been greatly misrepresented and abused here, in papers and pamphlets, and speeches, as ungrateful, and unreasonable, and unjust; in having put this nation to an immense expense for their defense, and refusing to bear any part of that expense The colonies raised, paid, and clothed near twenty-five thousand men during the last war; a number equal to those sent from Britain, and far beyond their proportion; they went deeply into debt in doing this, and all their taxes and estates are mortgaged for many years to come, for discharging that debt.

Government here was at that time very sensible of this. The colonies were recommended to Parliament. Every year the King sent down to the House a written message to this purpose; "that his majesty, being highly sensible of the zeal and vigor with which his faithful subjects in North America had exerted themselves in defense of his

Majesty's just rights and possessions, recommended it to the House to take the same into consideration, and enable him to give them a proper compensation." You will find those messages on your own journals every year of the war to the very last; and you did accordingly give two hundred thousand pounds annually to the crown, to be distributed in such compensation to the colonies.

This is the strongest of all proofs that the colonies, far from being unwilling to bear a share of the burden, did exceed their proportion; for if they had done less, or only equaled their proportion, there would have been no room or reason for compensation. Indeed, the sums reimbursed them, were by no means adequate to the expense they incurred beyond their proportion, but they never murmured at that; they esteemed their sovereign's approbation of their zeal and fidelity, and the approbation of this House, far beyond any other kind of compensation; therefore there was no occasion for this act, to force money from a willing people. They had not refused giving money for the purposes of the act; no requisition had been made; they were always willing and ready to do what could reasonably be expected from them, and in this light they wish to be considered.

Q. But suppose Great Britain should be engaged in a war in Europe, would North America contribute to the support of it?

A. I do think they would as far as their circumstances would permit. They consider themselves as a part of the British empire, and as having one common interest with it; they may be looked on here as foreigners, but they do not consider themselves as such. They are zealous for the honor and prosperity of this nation; and, while they are well used, will always be ready to support it, as far as their little power goes. In 1739 they were called upon to assist in the expedition against Carthagena, and they sent three thousand men to join your army. It is true, Carthagena is in America, but as remote from the northern colonies, as if it had been in Europe. They make no distinction of wars, as to their duty of assisting in them.

I know the last war is commonly spoken of here, as entered into for the defense, or for the sake, of the people in America. I think it is quite misunderstood. It began about the limits between Canada and Nova Scotia; about territories to which the crown indeed laid claim, but which were not claimed by any British colony; none of the lands had been granted to any colonist; we had therefore no particular concern or interest in that dispute. As to the Ohio, the contest began there about

your right of trading in the Indian country, a right you had by the treaty of Utrecht, which the French infringed; they seized the traders and their goods, which were your manufactures; they took a fort which a company of your merchants, and their factors, and correspondents, had erected there to secure that trade. Braddock was sent with an army to retake that fort (which was looked on here as another encroachment on the King's territory), and to protect your trade. It was not till after his defeat that the colonies were attacked. They were before in perfect peace with both French and Indians; the troops were not, therefore, sent for their defense.

The trade with the Indians, though carried on in America, is not an American interest. The people of America are chiefly farmers and planters; scarce anything that they raise or produce is an article of commerce with the Indians. The Indian trade is a British interest; it is carried on with British manufactures, for the profit of British merchants and manufacturers; therefore the war, as it commenced for the defense of territories of the crown (the property of no American), and for the defense of a trade purely British, was really a British war, and yet the people of America made no scruple of contributing their utmost towards carrying it on, and bringing it to a happy conclusion.

Q. Do you think, then, that the taking possession of the King's territorial rights, and strengthening the frontiers, is not an American interest?

A. Not particularly, but conjointly a British and an American interest.

Q. You will not deny that the preceding war, the war with Spain, was entered into for the sake of America; was it not occasioned by captures made in the American seas?

A. Yes; captures of ships carrying on the British trade there with British manufactures.

Q. Was not the late war with the Indians, since the peace with France, a war for America only?

A. Yes; it was more particularly for America than the former; but was rather a consequence or remains of the former war, the Indians not having been thoroughly pacified; and the Americans bore by much the greatest share of the expense. It was put an end to by the army under General Bouquet; there were not above three hundred regulars in that army, and above one thousand Pennsylvanians.

Q. Is it not necessary to send troops to America to defend the Americans against the Indians?

A. No, by no means; it never was necessary. They defended themselves when they were but a handful, and the Indians much more numerous. They continually gained ground, and have driven the Indians over the mountains, without any troops sent to their assistance from this country. And can it be thought necessary now to send troops for their defense from those diminished Indian tribes, when the colonies have become so populous and so strong? There is not the least occasion for it; they are very able to defend themselves.

Q. Do you say there were not more than three hundred regular troops employed in the late Indian war?

A. Not on the Ohio, or the frontiers of Pennsylvañia, which was the chief part of the war that affected the colonies. There were garrisons at Niagara, Fort Detroit, and those remote posts kept for the sake of your trade; I did not reckon them; but I believe, that on the whole the number of Americans or provincial troops, employed in the war, was greater than that of the regulars. I am not certain, but I think so.

Q. Do you think the assemblies have a right to levy money on the subject there, to grant to the crown?

A. I certainly think so; they have always done it.

Q. Are they acquainted with the declaration of rights? And do they know, that, by that statute, money is not to be raised on the subject but by consent of Parliament.

A. They are very well acquainted with it.

Q. How then can they think they have a right to levy money for the crown, or for any other than local purposes?

A. They understand that clause to relate to subjects only within the realm; that no money can be levied on them for the crown, but by consent of Parliament. The colonies are not supposed to be within the realm; they have assemblies of their own, which are their parliaments, and they are, in that respect, in the same situation with Ireland. When money is to be raised for the crown upon the subject in Ireland, or in the colonies, the consent is given in the Parliament of Ireland, or in the assemblies of the colonies. They think the Parliament of Great Britain cannot properly give that consent, till it has representatives from America; for the petition of right expressly says, it is to be by common consent in Parliament; and the people of America have no representatives in Parliament, to make a part of that common consent.

Q. If the Stamp Act should be repealed, and an act should pass, ordering the assemblies of the colonies to indemnify the sufferers by the riots, would they obey it?

A. That is a question I cannot answer.

Q. Suppose the King should require the colonies to grant a revenue, and the Parliament should be against their doing it, do they think they can grant a revenue to the King, without the consent of the Parliament of Great Britain?

A. That is a deep question. As to my own opinion, I should think myself at liberty to do it, and should do it, if I liked the occasion.

Q. When money has been raised in the colonies, upon requisitions, has it not been granted to the King?

A. Yes, always; but the requisitions have generally been for some service expressed, as to raise, clothe, and pay troops, and not for money only.

Q. If the act should pass requiring the American assemblies to make compensation to the sufferers, and they should disobey it, and then the Parliament should, by another act, lay an internal tax, would they then obey it?

A. The people will pay no internal tax; and, I think, an act to oblige the assemblies to make compensation is unnecessary; for I am of opinion, that, as soon as the present heats are abated, they will take the matter into consideration, and if it is right to be done, they will do it of themselves.

Q. Do not letters often come into the postoffices in America directed to some inland town where no post goes?

A. Yes.

Q. Can any private person take up those letters and carry them as directed?

A. Yes; any friend of the person may do it, paying the postage that has accrued.

Q. But must not he pay an additional postage for the distance to such inland town?

A. No.

Q. Can the post-master answer delivering the letter, without being paid such additional postage?

A. Certainly he can demand nothing, where he does no service.

Q. Suppose a person, being far from home, finds a letter in a post-office directed to him, and he lives in a place to which the post

generally goes, and the letter is directed to that place; will the postmaster deliver him the letter, without his paying the postage receivable at the place to which the letter is directed?

A. Yes; the office cannot demand postage for a letter that it does not carry, or farther than it does carry it.

Q. Are not ferry-men in America obliged, by act of Parliament, to carry over the posts without pay?

A. Yes.

Q. Is not this a tax on the ferry-men?

A. They do not consider it as such, as they have an advantage from persons travelling with the post.

Q. If the Stamp Act should be repealed, and the crown should make a requisition to the colonies for a sum of money, would they grant it?

A. I believe they would.

Q. Why do you think so?

A. I can speak for the colony I live in; I had it in instruction from the assembly to assure the ministry, that, as they always had done, so they should always think it their duty, to grant such aids to the crown as were suitable to their circumstances and abilities, whenever called upon for that purpose, in the usual constitutional manner; and I had the honor of communicating this instruction to that honorable gentleman then minister.

Q. Would they do this for a British concern, as suppose a war in some part of Europe, that did not affect them?

A. Yes, for any thing that concerned the general interest. They consider themselves a part of the whole.

Q. What is the usual constitutional manner of calling on the colonies for aids?

A. A letter from the Secretary of State.

Q. Is this all you mean; a letter from the Secretary of State?

A. I mean the usual way of requisition, in a circular letter from the Secretary of State, by his Majesty's command, reciting the occasion, and recommending it to the colonies to grant such aids as became their loyalty, and were suitable to their abilities.

Q. Did the Secretary of State ever write for money for the crown?

A. The requisitions have been to raise, clothe, and pay men, which cannot be done without money.

Q. Would they grant money alone, if called on?

A. In my opinion they would, money as well as men, when they have money, or can make it.

Q. If the Parliament should repeal the Stamp Act, will the assembly of Pennsylvania rescind their resolutions?

A. I think not.

Q. Before there was any thought of the Stamp Act, did they wish for a representation in Parliament?

A. No.

Q. Don't you know, that there is, in the Pennsylvania charter, an express reservation of the right of Parliament to lay taxes there?

A. I know there is a clause in the charter, by which the King grants, that he will levy no taxes on the inhabitants, unless it be with the consent of the assembly, or by act of Parliament.

Q. How, then, could the assembly of Pennsylvania assert, that laying a tax on them by the Stamp Act was an infringement of their rights?

A. They understand it thus; by the same charter, and otherwise, they are entitled to all the privileges and liberties of Englishmen; they find in the Great Charters, and the Petition and Declaration of Rights, that one of the privileges of English subjects is, that they are not to be taxed but by their common consent; they have therefore relied upon it, from the first settlement of the province, that the Parliament never would, nor could, by color of that clause in the charter, assume a right of taxing them, till it had qualified itself to exercise such right, by admitting representatives from the people to be taxed, who ought to make a part of that common consent.

Q. Are there any words in the charter that justify that construction?

A. "The common rights of Englishmen," as declared by Magna Charta, and the Petition of Right, all justify it.

Q. Does the distinction between internal and external taxes exist in the words of the charter?

A. No, I believe not.

Q. Then, may they not, by the same interpretation, object to the Parliament's right of external taxation?

A. They never have hitherto. Many arguments have been lately used here to show them, that there is no difference, and that, if you have no right to tax them internally, you have none to tax them externally, or make any other law to bind them. At present they do not

reason so; but in time they may possibly be convinced by these arguments.

Q. Do not the resolutions of the Pennsylvania assembly say, "all taxes"?

A. If they do, they mean only internal taxes; the same words have not always the same meaning here and in the colonies. By taxes, they mean internal taxes; by duties, they mean customs; these are their ideas of the language.

Q. Have you not seen the resolutions of the Massachusetts Bay assembly?

A. I have.

Q. Do they not say, that neither external nor internal taxes can be laid on them by Parliament?

A. I don't know that they do; I believe not.

Q. If the same colony should say, neither tax nor imposition could be laid, does not that province hold the power of Parliament can lay neither?

A. I suppose, that, by the word imposition, they do not intend to express duties to be laid on goods imported, as regulations of commerce.

Q. What can the colonies mean then by imposition, as distinct from taxes?

A. They may mean many things, as impressing of men or of carriages, quartering troops in private houses, and the like; there may be great impositions that are not properly taxes.

Q. Is not the post-office rate an internal tax laid by act of Parliament?

A. I have answered that.

Q. Are all parts of the colonies equally able to pay taxes?

A. No, certainly; the frontier parts, which have been ravaged by the enemy, are greatly disabled by that means; and therefore, in such cases, are usually favored in our tax laws.

Q. Can we, at this distance, be competent judges of what favors are necessary?

A. The Parliament have supposed it, by claiming a right to make tax laws for America; I think it impossible.

Q. Would the repeal of the Stamp Act be any discouragement of your manufactures? Will the people that have begun to manufacture decline it?

A. Yes, I think they will; especially if, at the same time, the trade is opened again, so that remittances can be easily made. I have known several instances that make it probable. In the war before last, tobacco being low, and making little remittance, the people of Virginia went generally into family manufactures. Afterwards, when tobacco bore a better price, they returned to the use of British manufactures. So fulling-mills were very much disused in the last war in Pennsylvania, because bills were then plenty, and remittances could easily be made to Britain for English cloth and other goods.

Q. If the Stamp Act should be repealed, would it induce the assemblies of America to acknowledge the rights of Parliament to tax them, and would they erase their resolutions?

A. No, never.

Q. Are there no means of obliging them to erase those resolutions?

A. None that I know of; they will never do it, unless compelled by force of arms.

Q. Is there a power on earth that can force them to erase them?

A. No power, how great soever, can force men to change their opinions.

Q. Do they consider the post-office as a tax, or as a regulation?

A. Not as a tax, but as a regulation and conveniency; every assembly encouraged it, and supported it in its infancy, by grants of money, which they would not otherwise have done; and the people have always paid the postage.

Q. When did you receive the instructions you mentioned?

A. I brought them with me, when I came to England, about fifteen months since.

Q. When did you communicate that instruction to the minister?

A. Soon after my arrival, while the stamping of America was under consideration, and before the bill was brought in.

Q. Would it be most for the interest of Great Britain, to employ the hands of Virginia in tobacco, or in manufactures?

A. In tobacco, to be sure.

Q. What used to be the pride of the Americans?

A. To indulge in the fashions and manufactures of Great Britain.

Q. What is now their pride?

A. To wear their old clothes over again, till they can make new ones.

Withdrew.

JOHN DICKINSON

JOHN DICKINSON was born in Maryland in 1732. He studied law in London and developed a successful practice in Philadelphia. He was a deputy to the first Colonial Congress in 1765. In 1767 he wrote his "Letters of a Pennsylvania Farmer" on the right of Parliament to tax the colonies. To him especially is due the distinction made by the colonists between external and internal taxes,—duties or tariffs and taxes proper. He argued that although Parliament had the right to regulate and had regulated trade by duties, they had no right, and never previous to the stamp act had attempted, to lay a direct, internal tax. Franklin also made this distinction, as may be seen from his examination before the Stamp Committee, but Dickinson more than anyone else emphasized the point.

He voted against the Declaration of Independence, considering the step too radical. This cost him his seat in the Continental Congress. In the war he fought as a private soldier after having resigned a commission as general. From 1782 to 1785 he was president of Pennsylvania. In the Federal Convention he was one of those that brought about equal representation of the states in the Senate. He died February 14, 1808.

LETTER I.

AGAINST THE SUSPENSION OF THE NEW YORK LEGISLATURE

My dear Countrymen,

I am a *Farmer,* settled, after a variety of fortunes, near the banks of the river *Delaware,* in the province of *Pennsylvania.* I received a liberal education, and have been engaged in the busy scenes of life; but am now convinced that a man may be as happy without bustle, as with it. My farm is small; my servants are few, and good; I have a little money at interest; I wish for no more; my employment in my own affairs is easy; and with a contented grateful mind, (undisturbed by

worldly hopes or fears, relating to myself,) I am completing the number of days allotted to me by divine goodness.

Being generally master of my time, I spend a good deal of it in a library, which I think the most valuable part of my small estate; and being acquainted with two or three gentlemen of abilities and learning, who honour me with their friendship, I have acquired, I believe, a greater knowledge in history, and the laws and constitution of my country, than is generally attained by men of my class, many of them not being so fortunate as I have been in the opportunities of getting information.

From my infancy I was taught to love *humanity* and *liberty*. Enquiry and experience have since confirmed my reverence for the lessons then given me, by convincing me more fully of their truth and excellence. Benevolence towards mankind, excites wishes for their welfare, and such wishes endear the means of fulfilling them. *These* can be found in liberty only, and therefore her sacred cause ought to be espoused by every man, on every occasion, to the utmost of his power. As a charitable, but poor person does not withhold his *mite*, because he cannot relieve *all* the distresses of the miserable, [4] so should not any honest man suppress his sentiments concerning freedom, however small their influence is likely to be. Perhaps he "may touch some wheel," that will have an effect greater than he could reasonably expect.

These being my sentiments, I am encouraged to offer to you, my countrymen, my thoughts on some late transactions, that appear to me to be of the utmost importance to you. Conscious of my own defects, I have waited some time, in expectation of seeing the subject treated by persons much better qualified for the task; but being therein disappointed, and apprehensive that longer delays will be injurious, I venture at length to request the attention of the public, praying, that these lines may be *read* with the same zeal for the happiness of *British America*, with which they were *wrote*.

With a good deal of surprise I have observed, that little notice has been taken of an act of parliament, as injurious in its principle to the liberties of these colonies, as the *Stamp-Act* was: I mean the act for suspending the legislation of *New-York*.

The assembly of that government complied with a former act of parliament, requiring certain provisions to be made for the troops in *America*, in every particular, I think, except the articles of salt, pepper

and vinegar. In my opinion they acted imprudently, considering all circumstances, in not complying so far as would have given satisfaction, as several colonies did: But my dislike of their conduct in that instance, has not blinded me so much, that I cannot plainly perceive, that they have been punished in a manner pernicious to *American* freedom, and justly alarming to all the colonies.

If the *British* parliament has a legal authority to issue an order, that we shall furnish a single article for the troops here, and to compel obedience to *that* order, they have the same right to issue an order for us to supply those troops with arms, clothes, and every necessary; and to compel obedience to *that* order also; in short, to lay *any burthens* they please upon us. What is this but *taxing* us at a *certain sum,* and leaving to us only the *manner* of raising it? How is this mode more tolerable than the *Stamp Act?* Would that act have appeared more pleasing to *Americans,* if being ordered thereby to raise the sum total of the taxes, the mighty privilege had been left to them, of saying how much should be paid for an instrument of writing on paper, and how much for another on parchment?

An act of parliament, commanding us to do a certain thing, if it has any validity, is a *tax* upon us for the expence that accrues in complying with it; and for this reason, I believe, every colony on the continent, that chose to give a mark of their respect for *Great-Britain,* in complying with the act relating to the troops, cautiously [5] avoided the mention of that act, lest their conduct should be attributed to its supposed obligation.

The matter being thus stated, the assembly of *New-York* either had, or had not, a right to refuse submission to that act. If they had, and I imagine no *American* will say they had not, then the parliament had *no right* to compel them to execute it. If they had not *that right,* they had *no right* to punish for not executing it; and therefore *no right* to suspend their legislation, which is a punishment. In fact, if the people of *New-York* cannot be legally taxed but by their own representatives, they cannot be legally deprived of the privilege of legislation, only for insisting on that exclusive privilege of taxation. If they may be legally deprived in such a case, of the privilege of legislation, why may they not, with equal reason, be deprived of every other privilege? Or why may not every colony be treated in the same manner, when any of them shall dare to deny their assent to any impositions, that shall be directed? Or what signifies the repeal of the

Stamp-Act, if these colonies are to lose their *other* privileges, by not tamely surrendering *that* of taxation?

There is one consideration arising from this suspension, which is not generally attended to, but shews its importance very clearly. It was not *necessary* that this suspension should be caused by an act of parliament. The crown might have restrained the governor of *New-York,* even from calling the assembly together, by its prerogative in the royal governments. This step, I suppose, would have been taken, if the conduct of the assembly of *New-York* had been regarded as an act of disobedience *to the crown alone;* but it is regarded as an act of "disobedience to the authority of the BRITISH LEGISLATURE." This gives the suspension a consequence vastly more affecting. It is a parliamentary assertion of the *supreme authority* of the *British* legislature over these colonies, in *the point of taxation,* and is intended to COMPEL *New-York* into a submission to that authority. It seems therefore to me as much a violation of the liberty of the people of that province, and consequently of all these colonies, as if the parliament had sent a number of regiments to be quartered upon them till they should comply. For it is evident, that the suspension is meant as a *compulsion;* and the *method* of compelling is totally indifferent. It is indeed probable, that the sight of red coats, and the hearing of drums, would have been most alarming; because people are generally more influenced by their eyes and ears, than by their reason. But whoever seriously considers the matter, must perceive that a dreadful stroke is aimed at the liberty of these colonies. I say, of these colonies; for the cause of *one* is the cause of *all.* If the parliament may lawfully deprive *New-York* of any of *her* rights, it may deprive any, or all the other colonies of *their* rights; and nothing can [6] possibly so much encourage such attempts, as a mutual inattention to the interests of each other. *To divide, and thus to destroy,* is the first political maxim in attacking those, who are powerful by their union. He certainly is not a wise man, who folds his arms, and reposes himself at home, viewing, with unconcern, the flames that have invaded his neighbour's house, without using any endeavours to extinguish them. When Mr. *Hampden's* ship money cause, for *Three Shillings* and *Four-pence,* was tried, all the people of *England,* with anxious expectations, interested themselves in the important decision; and when the slightest point, touching the freedom of *one* colony, is agitated, I earnestly wish, that *all the rest* may, with equal ardour,

support their sister. Very much may be said on this subject; but I hope, more at present is unnecessary.

With concern I have observed, that *two* assemblies of this province have sat and adjourned, without taking any notice of this act. It may perhaps be asked, what would have been proper for them to do? I am by no means fond of inflammatory measures; I detest them. I should be sorry that any thing should be done, which might justly displease our sovereign, or our mother country: But a firm, modest exertion of a free spirit, should never be wanting on public occasions. It appears to me, that it would have been sufficient for the assembly, to have ordered our agents to represent to the King's ministers, their sense of the suspending act, and to pray for its repeal. Thus we should have borne our testimony against it; and might therefore reasonably expect that, on a like occasion, we might receive the same assistance from the other colonies.

Concordia res parvae crescunt.
Small things grow great by concord.

A Farmer.

Nov. 5. [7]

LETTER II.

Against Direct Taxation

My dear Countrymen,

There is another late act of parliament, which appears to me to be unconstitutional, and as destructive to the liberty of these colonies, as that mentioned in my last letter; that is, the act for granting the duties on paper, glass, etc.

The parliament unquestionably possesses a legal authority to *regulate* the trade of *Great-Britain,* and all her colonies. Such an authority is essential to the relation between a mother country and her colonies; and necessary for the common good of all. He, who considers these provinces as states distinct from the *British Empire,* has very slender notions of *justice,* or of their *interests.* We are but parts of a *whole;* and therefore there must exist a power somewhere to preside, and preserve the connection in due order. This power is lodged in the parliament; and we are as much dependent on *Great-Britain,* as a perfectly free people can be on another.

I have looked over *every statute* relating to these colonies, from their first settlement to this time; and I find every one of them founded on this principle, till the *Stamp-Act* administration. *All before,* [8] are calculated to regulate trade, and preserve or promote a mutually beneficial intercourse between the several constituent parts of the empire; and though many of them imposed duties on trade, yet those duties were always imposed *with design* to restrain the commerce of one part, that was injurious to another, and thus to promote [9] the general welfare. The raising a revenue thereby was never intended. Thus the King, by his judges in his courts of justice, imposes fines which all together amount to a very considerable sum, and contribute to the support of government: But this is merely a consequence arising from restrictions, that only meant to keep peace, and prevent confusion; and surely a man would argue very loosely, who should conclude from hence, that the King has a right to levy money in general upon his subjects. Never did the *British* parliament, till the period above mentioned, think of imposing duties in *America,* FOR THE PURPOSE OF RAISING A REVENUE. Mr. *Grenville* first introduced this language, in the preamble to the 4th of *Geo.* III., Chap. 15, which has these words "And whereas it is just and necessary that A REVENUE BE RAISED IN YOUR MAJESTY'S SAID DOMINIONS IN AMERICA, *for defraying the expences of defending, protecting, and securing the same:* We your Majesty's most dutiful and loyal subjects, THE COMMONS OF GREAT-BRITAIN, in parliament assembled, being desirous to make some provision in this present session of parliament, TOWARDS THE SAID REVENUE IN AMERICA, have resolved to GIVE and GRANT unto your Majesty the several rates and duties herein after mentioned," *&c.*

A few months after came the *Stamp-Act,* which reciting this, proceeds in the same strange mode of expression, thus—"And whereas it is just and necessary, that provision be made FOR RAISING A FURTHER REVENUE WITHIN YOUR MAJESTY'S DOMINIONS IN AMERICA, *towards defraying the said expenses,* we your Majesty's most dutiful and loyal subjects, the COMMONS OF GREAT-BRITAIN, *&c.* GIVE and GRANT, *&c.* as before.

The last act, granting duties upon paper, *&c.* carefully pursues these modern precedents. The preamble is, "Whereas it is expedient THAT A REVENUE SHOULD BE RAISED IN YOUR MAJESTY'S DOMINIONS IN AMERICA, *for making a more certain and adequate provision for defraying the charge of the administration of justice, and the support of civil*

government in such provinces, where it shall be found necessary; and towards the further defraying the expences of defending, protecting and securing the said dominions, we your Majesty's most dutiful and loyal subjects, the COMMONS OF GREAT-BRITAIN, *&c.* GIVE and GRANT," *&c.* as before.

Here we may observe an authority *expressly* claimed and exerted to impose duties on these colonies; not for the regulation of trade; not [10] for the preservation or promotion of a mutually beneficial intercourse between the several constituent parts of the empire, heretofore the *sole objects* of parliamentary institutions; *but for the single purpose of levying money upon us.*

This I call an innovation; and a most dangerous innovation. It may perhaps be objected, that *Great-Britain* has a right to lay what duties she pleases upon her exports, and it makes no difference to us, whether they are paid here or there.

To this I answer. These colonies require many things for their use, which the laws of *Great-Britain* prohibit them from getting any where but from her. Such are paper and glass.

That we may legally be bound to pay any *general* duties on these commodities relative to the regulation of trade, is granted; but we being *obliged by the laws* to take from *Great-Britain,* any *special* duties imposed on their exportation *to us only, with intention to raise a revenue from us only,* are as much *taxes,* upon us, as those imposed by the *Stamp-Act.*

What is the difference in *substance* and *right* whether the same sum is raised upon us by the rates mentioned in the *Stamp-Act,* on the *use* of paper, or by these duties, on the *importation* of it. It is only the edition of a former book, shifting a sentence from the *end* to the *beginning.*

Suppose the duties were made payable in *Great-Britain.*

It signifies nothing to us, whether they are to be paid here or there. Had the *Stamp-Act* directed, that all the paper should be landed at *Florida,* and the duties paid there, before it was brought to the *British* colonies, would the act have raised less money upon us, or have been less destructive of our rights? By no means: For as we were under a necessity of using the paper, we should have been under the necessity of paying the duties. Thus, in the present case, a like *necessity* will subject us, if this act continues in force, to the payment of the duties now imposed.

Why was the *Stamp-Act* then so pernicious to freedom? It did not enact, that every man in the colonies *should* buy a certain quantity [11] of paper—No: It only directed, that no instrument of writing should be valid in law, if not made on stamped paper, *&c.*

The makers of that act knew full well, that the confusions that would arise from the disuse of writings, would COMPEL the colonies to use the stamped paper, and therefore to pay the taxes imposed. For this reason the *Stamp-Act* was said to be a law THAT WOULD EXECUTE ITSELF. For the very same reason, the last act of parliament, if it is granted to have any force here, WILL EXECUTE ITSELF, and will be attended with the very same consequences to *American* liberty.

Some persons perhaps may say, that this act lays us under no necessity to pay the duties imposed, because we may ourselves manufacture the articles on which they are laid; whereas by the *Stamp-Act* no instrument of writing could be good, unless made on *British* paper, and that too stamped.

Such an objection amounts to no more than this, that the injury resulting to these colonies, from the total disuse of *British* paper and glass, will not be *so afflicting* as that which would have resulted from the total disuse of writing among them; for by that means even the *Stamp-Act* might have been eluded. Why then was it universally detested by them as slavery itself? Because it presented to these devoted provinces nothing but a choice of calamities, imbittered by indignities, each of which it was unworthy of freemen to bear. But is no injury a violation of right but the *greatest* injury? If the eluding the payment of the taxes imposed by the *Stamp-Act,* would have subjected us to a more dreadful inconvenience, than the eluding the payment of those imposed by the late act; does it therefore follow, that the last is *no violation* of our rights, tho' it is calculated for the same purpose the other was, that is, *to raise money upon us,* WITHOUT OUR CONSENT.

This would be making *right* to consist, not in an exemption from *injury,* but from a certain *degree of injury.*

But the objectors may further say, that we shall suffer no injury at all by the disuse of *British* paper and glass. We might not, if we could make as much as we want. But can any man, acquainted with *America,* believe this possible? I am told there are but two or three *Glass-Houses* on this continent, and but very few *Paper-Mills*; and suppose more should be erected, a long course of years must elapse, before they can be brought to perfection. This continent is a country of

planters, farmers, and fishermen; not of manufacturers. The difficulty of establishing particular manufactures in such a country, is almost insuperable. For one manufacture is connected with others in such a manner, that it may be said to be impossible to establish one or two, without establishing several [12] others. The experience of many nations may convince us of this truth.

Inexpressible therefore must be our distresses in evading the late acts, by the disuse of *British* paper and glass. Nor will this be the extent of our misfortune, if we admit the legality of that act.

Great-Britain has prohibited the manufacturing *iron* and *steel* in these colonies, without any objection being made to her *right* of doing it. The *like* right she must have to prohibit any other manufacture among us. Thus she is possessed of an undisputed *precedent* on that point. This authority, she will say, is founded on the *original intention* of settling these colonies; that is, that we should manufacture for them, and that they should supply her with materials. The *equity* of this policy, she will also say, has been universally acknowledged by the colonies, who never have made the least objections to statutes for that purpose; and will further appear by the *mutual benefits* flowing from this usage ever since the settlement of these colonies.

Our great advocate, Mr. *Pitt,* in his speeches on the debate concerning the repeal of the *Stamp-Act,* acknowledged, that *Great-Britain* could restrain our manufactures. His words are these—"This kingdom, as the supreme governing and legislative power, has ALWAYS bound the colonies by her regulations and RESTRICTIONS in trade, in navigation, in MANUFACTURES—in every thing, *except that of taking their money out of their pockets,* WITHOUT THEIR CONSENT." Again he says, "We may bind their trade, CONFINE THEIR MANUFACTURES, and exercise every power whatever, *except that of taking their money out of their pockets,* WITHOUT THEIR CONSENT."

Here then, my dear countrymen, ROUSE yourselves, and behold the ruin hanging over your heads. If you ONCE admit, that *Great-Britain* may lay duties upon her exportations to us, *for the purpose of levying money on us only,* she then will have nothing to do, but to lay those duties on the articles which she prohibits us to manufacture—and the tragedy of *American* liberty is finished. We have been prohibited from procuring manufactures, in all cases, any where but from *Great-Britain* (excepting linens, which we are permitted to import directly from *Ireland.* We have been prohibited, in some cases, from manufacturing

for ourselves; and may be prohibited in others. We are therefore exactly in the situation of a city besieged, which is surrounded by the works of the besiegers in every part *but one.* If *that* is closed up, no step can be taken, *but to surrender at discretion.* If *Great-Britain* can order us to come to her for necessaries we want, and can order us to pay what taxes she pleases before we take them away, or when we land them here, we are as abject slaves as *France* and *Poland* can shew in wooden shoes, and with uncombed hair. [13]

Perhaps the nature of the *necessities* of dependent states, caused by the policy of a governing one, for her own benefit, may be elucidated by a fact mentioned in history. When the Carthaginians were possessed of the island of *Sardinia,* they made a decree, that the Sardinians should not raise *corn,* nor get it any other way than from the *Carthaginians.* Then, by imposing any duties they would upon it, they drained from the miserable *Sardinians* any sums they pleased; and whenever that oppressed people made the least movement to assert their liberty, their tyrants starved them to death or submission. This may be called the most perfect kind of political necessity.

From what has been said, I think this uncontrovertible conclusion may be deduced, that when a ruling state obliges a dependent state to take certain commodities from her alone, it is implied in the nature of that obligation; is essentially requisite to give it the least degree of justice; and is inseparably united with it, in order to preserve any share of freedom to the dependent state; *that those commodities should never be loaded with duties,* FOR THE SOLE PURPOSE OF LEVYING MONEY ON THE DEPENDENT STATE.

Upon the whole, the single question is, whether the parliament can legally impose duties to be paid *by the people of these colonies only,* FOR THE SOLE PURPOSE OF RAISING A REVENUE, *on commodities which she obliges us to take from her alone,* or in other words, whether the parliament can legally take money out of our pockets, without our consent. If they can, our boasted liberty is but

Vox et praeterea nihil.

A sound and nothing else.

A FARMER.

THOMAS PAINE

THOMAS PAINE was born in Norfolk, England, January 29, 1737. He did not emigrate to America until he was thirty-eight, but went with introductions in his pocket from Franklin to the leaders of the resistance among the colonists, and at once took an active part in the movement. January 1, 1776, he issued his famous pamphlet, "Common Sense." It was the strongest and the most radical of the arguments thus far issued on the side of the colonies. The New York assembly appointed a committee to reply to it, but they separated with the report that it was unanswerable. A few years later he again stirred men's hearts with "The Crisis," the first sentence of which, "These are the times that try men's souls," became a battle-cry.

In 1787 he went to France as secretary to the committee of foreign affairs, and was of course imbued with the spirit of the French revolution. He crossed over to England in 1791 and published his "Rights of Man" as an answer to Burke's "Reflections on the Revolutions in France." The book had an enormous influence. The government had to attempt its suppression. Paine was indicted for treason, but permitted to return to France to take the seat in the Convention, to which he had been elected from Calais. His proposal to offer the king an asylum in America aroused the suspicion of Robespierre, who had him imprisoned, and he escaped the guillotine only on the intercession of the American government. It was during his imprisonment that he wrote "The Age of Reason." It is written from the standpoint of one who believes in Deism—a natural worship of God—against both Christianity and atheism.

In 1802 he returned to the United States. The last of his life was embittered by quarrels on account of the imagined ingratitude of his old compatriots. He died in 1809.

He was probably the greatest of American pamphleteers. His bones were taken to England by William Cobbett, and where they now rest is unknown.

COMMON SENSE

Thoughts on the Present State of American Affairs

In the following pages, I offer nothing more than simple facts, plain arguments, and common sense; and have no other preliminaries to settle with the reader, than that he will divest himself of prejudice and prepossession, and suffer his reason and his feelings to determine for themselves; that he will put on, or rather that he will not put off, the true character of the man, and generously enlarge his views beyond the present day.

Volumes have been written on the subject of the struggle between England and America. Men of all ranks have embarked in the controversy, from different motives and with various designs; but all have been ineffectual, and the period of debate is closed. Arms, as the last resource, decide the contest; the appeal was the choice of the king, and the continent hath accepted the challenge.

It hath been reported of the late Mr. Pelham—who, though an able minister, was not without his faults—that, on his being attacked in the House of Commons, on the score, that his measures were only of a temporary kind, replied, "they will last my time." Should a thought, so fatal and unmanly, possess the colonies in the present contest, the name of ancestors will be remembered by future generations with detestation.

The sun never "shined" on a cause of greater worth. It is not the affair of a city, a county, a province, or a kingdom, but of a continent—of, at least, one-eighth part of the habitable globe. It is not the concern of a day, a year, or an age; posterity are virtually involved in the contest, and will be more or less affected, even to the end of time, by the proceedings now. Now is the seed-time of continental union, faith, and honour. The least fracture now will be like a name engraved with the point of a pin on the tender rind of a young oak: the wound will enlarge with the tree, and posterity will read it in full-grown characters.

By referring the matter from argument to arms, a new era for politics is struck—a new method of thinking hath arisen. All plans, proposals, &c., prior to the 19th of April—i. e. to the commencement of hostilities—are like the almanacks of the last year; which, though proper then, are superseded and useless now. Whatever was advanced by the advocates on either side of the question then, terminated in one and the

same point, viz., an union with Great Britain; the only difference between the parties was the method of effecting it—the one proposing force, the other friendship; but it hath so far happened, that the first hath failed, and the second hath withdrawn her influence.

As much hath been said of the advantages of reconciliation—which, like an agreeable dream, hath passed away, and left us as we were—it is but right that we should examine the contrary side of the argument, and enquire into some of the many material injuries which the colonies sustain, and always will sustain by being connected with and dependent on Great Britain—to examine that connection and dependence on the principles of nature and common sense—to see what we have to trust to, if separated, and what we are to expect, if dependent.

I have heard it asserted by some, that, as America hath flourished under her former connection with Great Britain, the same connection is necessary towards her future happiness, and will always have the same effect. Nothing can be more fallacious that this kind of argument. We may as well assert, that, because a child has thrived upon milk, that it is never to have meat; or that the first twenty years of our lives are to become a precedent for the next twenty. But even this is admitting more than is true; for I answer roundly, that America would have flourished as much, and probably much more, had no European power had anything to do with her. The commerce by which she hath enriched herself, are the necessaries of life, and will always have a market while eating is the custom of Europe.

But she has protected us, say some. That she has engrossed us, is true, and defended the continent at our expense, as well as her own, is admitted; and she would have defended Turkey from the same motive, viz., the sake of trade and dominion.

Alas! we have been long led away by ancient prejudices, and made large sacrifices to superstition. We have boasted of the protection of Great Britain, without considering that her motive was interest, not attachment; that she did not protect us from our enemies on our account, but from her enemies on her own account; from those who had no quarrel with us on any other account, and who will always be our enemies on the same account. Let Britain waive her pretensions to the continent, or the continent throw off the dependence; and we shall be at peace with France and Spain, were they at war with Britain. The miseries of Hanover, last war, ought to warn us against connections.

It has lately been asserted in parliament, that the colonies have no

relation to each other but through the parent country; i. e., that Pennsylvania and the Jerseys, and so on for the rest, are sister colonies by the way of England. This is certainly a very round-about way of proving relationship, but it is the nearest and only true way of proving enemyship, if I may so call it. France and Spain never were, nor perhaps ever will be our enemies, as Americans, but as our being the subjects of Great Britain.

But Britain is the parent country, say some. Then the more shame on her conduct. Even brutes do not devour their young, nor savages make war upon their families; wherefore the assertion, if true, turns to her reproach; but it happens not to be true, or only partly so; and the phrase—parent, or mother country—hath been jesuitically adopted by the king and his parasites, with a low papistical design of gaining an unfair bias on the credulous weakness of our minds. Europe, and not England, is the parent country of America. This new world hath been the asylum for the persecuted lovers of civil and religious liberty, from every part of Europe. Hither have they fled, not from the tender embraces of the mother, but from the cruelty of the monster; and it is so far true of England, that the same tyranny which drove the first emigrants from home, pursues their descendants still.

In this extensive quarter of the globe we forget the narrow limits of three hundred and sixty miles (the extent of England), and carry our friendship on a larger scale; we claim brotherhood with every European Christian, and triumph in the generosity of the sentiment.

It is pleasant to observe by what regular gradations we surmount the force of local prejudice, as we enlarge our acquaintance with the world. A man born in any town in England, divided into parishes, will naturally associate most with his fellow-parishioners, because their interests in many cases will be common, and distinguish him by the name of neighbour; if he meet him but a few miles from home, he drops the narrow idea of a street, and salutes him by the name of townsman; if he travel out of the country, and meet him in any other, he forgets the minor divisions of street and town, and calls him countryman—that is, countyman; but if, in their foreign excursions, they should associate in France, or any other part of Europe, their local remembrance would be enlarged into that of Englishmen. And, by a just parity of reasoning, all Europeans meeting in America, or any other quarter of the globe, are countrymen: for England, Holland, Germany, or Sweden,

when compared with the whole, stand in the same places on the larger scale, which the divisions of street, town, and country, do on the smaller ones; distinctions too limited for continental minds. Not one-third of the inhabitants, even of this province, are of English descent. Wherefore, I reprobate the phrase of "parent or mother country," applied to England only, as being false, selfish, narrow, and ungenerous.

But, admitting that we are all of English descent, what does it amount to? Nothing. Britain, being now an open enemy, extinguishes every other name and title: and to say that reconciliation is our duty, is truly farcical. The first King of England of the present line (William the Conqueror), was a Frenchman, and half the peers of England are descendants from the same country; wherefore, by the same method of reasoning, England ought to be governed by France.

Much hath been said of the united strength of Britain and the colonies; that, in conjunction, they might bid defiance to the world. But this is mere presumption. The fate of war is uncertain; neither do the expressions mean anything; for this continent would never suffer itself to be drained of inhabitants to support the British arms in either Asia, Africa, or Europe.

I challenge the warmest advocate for reconciliation, to shew a single advantage that this continent can reap by being connected with Great Britain; I repeat the challenge—not a single advantage is derived. Our corn will fetch its price in any market in Europe; and our imported goods must be paid for, buy them where you will.

Besides, what have we to do with setting the world at defiance? Our plan is commerce; and that, well attended to, will secure us the peace and friendship of all Europe; because it is the interest of all Europe to have America a free port. Her trade will always be a protection, and her barrenness of gold and silver secure her from invaders.

But the injuries and disadvantages we sustain by that connection are without number; and our duty to mankind at large, as well as to ourselves, instructs us to renounce the alliance. Because, any submission to, or dependence on Great Britain, tends directly to involve this continent in European wars and quarrels, and set us at variance with nations who would otherwise seek our friendship, and against whom we have neither anger nor complaint. As Europe is our market for trade, we ought to form no partial connection with any part of it. It is the true interest of America to steer clear of European contentions;

which she never can do, while, by her dependence on Britain, she is made the make-weight in the scale of British politics.

Europe is too thickly planted with kingdoms to be long at peace; and whenever a war breaks out between England and any foreign power, the trade of America goes to ruin, because of her connection with Britain. The next war may not turn out like the last; and should it not, the advocates for reconciliation now, will be wishing for separation then, because neutrality in that case would be a safer convoy than a man of war. Everything that is right or natural pleads for separation. The blood of the slain, the weeping voice of nature cries, It is time to part! Even the distance at which the Almighty has placed England and America, is a strong and natural proof that the authority of the one over the other was never the design of heaven. The time, likewise, at which the continent was discovered, adds weight to the argument, and the manner in which it was peopled increases the force of it. The reformation was preceded by the discovery of America; as if the Almighty graciously meant to open a sanctuary to the persecuted in future years, when home should afford neither friendship nor safety.

The authority of Great Britain over this continent is a form of government which, sooner or later, must have an end; and a serious mind can draw no true pleasure by looking forward, under the painful and positive conviction, that what he calls "the present constitution," is merely temporary. As parents, we can have no joy, knowing that this government is not sufficiently lasting to ensure anything which we may bequeathe to posterity; and by a plain method of argument, as we are running the next generation into debt, we ought to do the work of it, otherwise we use them meanly and pitifully. In order to discover the line of our duty rightly, we should take our children in our hands, and fix our station a few years farther into life; that eminence will present a prospect, which a few present fears and prejudices conceal from our sight.

Though I would carefully avoid giving unnecessary offence, yet I am inclined to believe, that all those who espouse the doctrine of reconciliation, may be included within the following descriptions. Interested men, who are not to be trusted; weak men, who cannot see; prejudiced men, who will not see; and a certain set of moderate men, who think better of the European world than it deserves; and this last class, by an ill-judged deliberation, will be the cause of more calamities to this continent than all the other three.

It is the good fortune of many to live distant from the scene of sorrow; the evil is not sufficiently brought to their doors to make them feel the precariousness with which all American property is possessed. But let our imaginations transport us for a few moments to Boston; that seat of wretchedness will teach us wisdom, and instruct us for ever to renounce a power in whom we have no trust. The inhabitants of that unfortunate city, who but a few months ago were in ease and affluence, have now no other alternative than to stay and starve, or turn out to beg;—endangered by the fire of their friends, if they continue within the city, and plundered by the soldiery, if they leave it. In their present condition, they are prisoners without the hope of redemption; and in a general attack for their relief, they would be exposed to the fury of both armies.

Men of passive tempers look somewhat lightly over the offences of Britain, and, still hoping for the best, are apt to call out, "Come, come, we shall be friends again for all this!" But, examine the passions and feelings of mankind—bring the doctrine of reconciliation to the touchstone of nature, and then tell me, whether you can hereafter love, honour, and faithfully serve the power that hath carried fire and sword into your land? If you cannot do all these, then are you only deceiving yourselves, and, by your delay, bringing ruin upon posterity. Your future connection with Britain, whom you can neither love nor honour, will be forced and unnatural; and, being formed only on the plan of present convenience, will in a little time fall into a relapse more wretched than the first. But if you say, you can still pass the violations over, then I ask Hath your house been burnt? Hath your property been destroyed before your face? Are your wife and children destitute of a bed to lie on, or bread to live on? Have you lost a parent or a child by their hands, and are you yourself the ruined and wretched survivor? If you have not, then are you not a judge of those who have. But if you have, and still can shake hands with the murderers, then you are unworthy the name of a husband, father, friend, or lover; and whatever may be your rank or title in life, you have the heart of a coward, and the spirit of a sycophant.

This is not inflaming or exaggerating matters, by trying them by those feelings and affections which nature justifies, and without which we should be incapable of discharging the duties of life, or enjoying the felicities of it. I mean not to exhibit horror for the purpose of provoking revenge, but to awaken us from fatal and unmanly slumbers,

that we may pursue determinately some fixed object. It is not in the power of Britain or of Europe to conquer America, if she do not conquer herself by delay and timidity. The present winter is worth an age, if rightly employed; but if neglected, the whole continent will partake of the misfortune; and there is no punishment which that man will not deserve, be he who or what or where he will, that may be the means of sacrificing a season so precious and useful.

It is repugnant to reason, to the universal order of things, to all examples from former ages, to suppose that this continent can longer remain subject to any external power. The most sanguine in Britain do not think so. The utmost stretch of human wisdom cannot, at this time, compass a plan, short of separation, which can promise the continent a year's security. Reconciliation is now a fallacious dream. Nature has deserted the connection, and Art cannot supply her place; for, as Milton wisely expresses it, "Never can true reconcilement grow, where wounds of deadly hate have pierced so deep."

Every quiet method for peace hath been ineffectual. Our prayers have been rejected with disdain; and only tended to convince us, that nothing flatters vanity, or confirms obstinacy in kings, more than repeated petitioning—and nothing hath contributed more than that very measure to make the kings of Europe absolute; witness Denmark and Sweden. Wherefore, since nothing but blows will do, for God's sake, let us come to a final separation; and not leave the next generation to be cutting of throats, under the violated unmeaning names of parent and child.

To say they will never attempt it again, is idle and visionary; we thought so at the repeal of the stamp-act, yet a year or two undeceived us; as well may we suppose that nations which have been once defeated, will never renew the quarrel.

As to government matters, it is not in the power of Britain to do this continent justice: the business of it will soon be too weighty and intricate to be managed with any tolerable degree of convenience, by a power so distant from us, and so very ignorant of us; for if they cannot conquer us, they cannot govern us. To be always running three or four thousand miles with a tale or a petition—waiting four or five months for an answer—which, when obtained, requires five or six more to explain it in—will, in a few years, be looked upon as childishness. There was a time when it was proper, and there is a time for it to cease.

Small islands, not capable of protecting themselves, are the proper

objects for kingdoms to take under their care; but there is something very absurd in supposing a continent to be perpetually governed by an island. In no instance hath nature made the satellite larger than its primary planet; and as England and America, with respect to each other, reverse the common order of nature, it is evident they belong to different systems, England to Europe—America to itself.

I am not induced by motives of pride, party, or resentment, to espouse the doctrine of separation and independence. I am clearly, positively, and conscientiously persuaded, that it is the true interest of this continent to be so; that everything short of that, is mere patchwork; that it can afford no lasting felicity; that it is leaving the sword to our children, and slinking back at a time when a little more—a little farther—would have rendered this continent the glory of the earth.

As Britain hath not manifested the least inclination towards a compromise, we may be assured that no terms can be obtained worthy the acceptance of the continent, or any ways equal to the expense of blood and treasure we have been already put to.

The object contended for, ought always to bear some just proportion to the expense. The removal of North, or the whole detestable junto, is a matter unworthy the millions we have expended. A temporary stoppage of trade was an inconvenience which would have sufficiently balanced the repeal of all the acts complained of, had such repeals been obtained: but if the whole continent must take up arms—if every man must be a soldier—it is scarcely worth our while to fight against a contemptible ministry only. Dearly, dearly do we pay for the repeal of the acts, if this is all we fight for; for, in a just estimation, it is as great a folly to pay a Bunker's-Hill price for law as for land. As I have always considered the independence of the continent as an event which sooner or later must arise, so, from the late rapid progress of the continent to maturity, the event could not be far off. Wherefore, on the breaking out of hostilities, it was not worth while to have disputed a matter which time would have finally redressed, unless we meant to be in earnest; otherwise, it is like wasting an estate on a suit at law, to regulate the trespasses of a tenant, whose lease is just expiring. No man was a warmer wisher for reconciliation than myself before the fatal Nineteenth of April, 1775; but the moment the event of that day was made known, I rejected the hardened, sullen-tempered Pharaoh of England for ever; and disdained the wretch that, with the pretended

title of "Father of his People," can unfeelingly hear of their slaughter, and composedly sleep with their blood upon his soul.

But, admitting that matters were now made up, what would be the event? I answer, the ruin of the continent. And that for several reasons.

First. The powers of governing still remaining in the hands of the king, he will have a negative over the whole legislation of the continent. And as he hath shewn himself such an inveterate enemy to liberty, and discovered such a thirst for arbitrary power, is he, or is he not, a proper man to say to these colonies, "You shall make no laws but what I please?" And is there any inhabitant in America so ignorant as not to know, that, according to what is called the present constitution, this continent can make no laws but what the king gives leave to? And is there any man so unwise as not to see (considering what has happened), that he will suffer no law to be made here but such as suits his purpose? We may be as effectually enslaved by the want of laws in America, as by submitting to laws made for us in England. After matters are made up (as it is called), can there be any doubt but the whole power of the crown will be exerted to keep this continent as low and as humble as possible? Instead of going forward, we shall go backward; or be perpetually quarrelling, or ridiculously petitioning. We are already greater than the king wishes us to be, and will he not endeavour to make us less? To bring the matter to one point. Is the power, who is jealous of our prosperity, a proper power to govern us? Whoever says no to this question, is an independent; for independency means no more than whether we shall make our own laws, or whether the king (the greatest enemy this continent hath or can have) shall tell us, "There shall be no laws but such as I like."

But the king, you will say, has a negative in England; the people there can make no laws without his consent. In point of right and good order, there is something very ridiculous, that a youth of twenty-one (which hath often happened), shall say to several millions of people, older and wiser than himself, "I forbid this or that act of yours to be law!" But in this place I decline this sort of reply—though I will never cease to expose the absurdity of it—and only answer, that England being the king's residence, and America not so, makes quite another case. The king's negative here, is ten times more dangerous and fatal than it can be in England; for, there, he will scarcely refuse his consent to a

bill for putting England into as strong a state of defence as possible, and in America he would never suffer such a bill to be passed.

America is only a secondary object in the system of British politics. England consults the good of this country no farther than it answers her own purpose. Wherefore, her own interest leads her to suppress the growth of ours, in every case which doth not promote her advantage, or in the least interfere with it. A pretty state we should soon be in under such a second-hand government, considering what has happened! Men do not change from enemies to friends by the alteration of a name; and in order to shew that reconciliation now is a dangerous doctrine, I affirm, that it would be policy in the king at this time to repeal the acts, for the sake of re-instating himself in the government of the provinces; in order that he may accomplish, by craft and subtlety, in the long run, what he cannot do by force and violence in the short one. Reconciliation and ruin are nearly related.

Secondly, That, as even the best terms which we can expect to obtain, can amount to no more than a temporary expedient, or a kind of government by guardianship, which can last no longer than till the colonies come of age, so the general face and state of things, in the interim, will be unsettled and uncompromising. Emigrants of property will not choose to come to a country whose form of government hangs but by a thread, and which is every day tottering on the brink of commotion and disturbance; and numbers of the present inhabitants would lay hold of the interval to dispose of their effects and quit the continent.

But the most powerful of all arguments is, that nothing but independence—i. e., a continental form of government—can keep the peace of the continent, and preserve it inviolate from civil wars. I dread the event of a reconciliation now, as it is more than probable that it will be followed by a revolt somewhere or other; the consequence of which may be far more fatal than all the malice of Britain.

Thousands are already ruined by British barbarity! thousands more will probably suffer the same fate! Those men have other feelings than us who have nothing suffered. All they now possess is liberty; what they before enjoyed is sacrificed to its service; and having nothing more to lose, they disdain submission. Besides, the general temper of the colonies, towards a British government, will be like that of a youth who is nearly out of his time;—they will care very little about her. And a government which cannot preserve the peace, is no government at all; and, in that case, we pay our money for nothing: and,

pray, what is it that Britain can do, whose power will be wholly on paper, should a civil tumult break out the very day after reconciliation? I have heard some men say—many of whom, I believe, spoke without thinking—that they dreaded an independence, fearing it would produce civil wars. It is but seldom that our first thoughts are truly correct, and that is the case here; for there are ten times more to dread from a patched-up connection than from independence. I make the sufferer's case my own; and I protest, that were I driven from house and home, my property destroyed, and my circumstances ruined, that, as a man sensible of injuries, I could never relish the doctrine of reconciliation, or consider myself bound thereby.

The colonies have manifested such a spirit of good order and obedience to continental government, as is sufficient to make every reasonable person easy and happy on that head. No man can assign the least pretence for his fears, on any other grounds than such as are truly childish and ridiculous, viz., that one colony will be striving for superiority over another.

Where there are no distinctions, there can be no superiority; perfect equality affords no temptation. The republics of Europe are all, and we may say always, at peace. Holland and Switzerland are without wars, foreign or domestic; monarchical governments, it is true, are never long at rest; the crown itself is a temptation to enterprising ruffians at home, and that degree of pride and insolence, ever attendant on regal authority, swells into a rupture with foreign powers, in instances where a republican government, by being formed on more natural principles, would negotiate the mistake.

If there is any true cause of fear respecting independence, it is because no plan is yet laid down: men do not see their way out. Wherefore, as an opening into that business, I offer the following hints; at the same time modestly affirming that I have no other opinion of them myself, than that they may be the means of giving rise to something better. Could the straggling thoughts of individuals be collected, they would frequently form materials for wise and able men to improve into useful matter.

Let the assemblies be annual, with a president only. Their representation more equal: their business wholly domestic, and subject to the authority of a continental congress.

Let each colony be divided into six, eight or ten convenient districts; each district to send a proper number of delegates to congress, so that

each colony send at least thirty. The whole number in congress will be at least 390. Each congress to sit——————————and to choose a president by the following method:—When the delegates are met, let a colony be taken from the whole thirteen colonies by lot; after which, let the whole congress choose, by ballot, a president from out of the delegates of that province. In the next congress, let a colony be taken by lot from twelve only, omitting that colony from which the president was taken in the former congress, and so proceeding on till the whole thirteen shall have had their proper rotation. And in order that nothing may pass into a law but what is satisfactorily just, not less than three-fifths of the congress to be called a majority. He that will promote discord, under a government so equally formed as this, would have joined Lucifer in his revolt.

But as there is a peculiar delicacy, from whom, or in what manner, this business must first arise; and as it seems most agreeable and consistent that it should come from some intermediate body between the governed and the governors, that is, between the congress and the people, let a Continental Conference be held, in the following manner, and for the following purpose:—

A committee of twenty-six members of congress,—viz. two for each colony. Two members from each House of Assembly or provincial convention; and five representatives of the people at large, to be chosen in the capital or town of each province, for and in behalf of the whole province, by as many qualified voters as shall attend from all parts of the province, for that purpose; or, if more convenient, the representatives may be chosen in two or three of the most populous parts thereof. In this conference, thus assembled, will be united the two grand principles of business, knowledge and power. The members of congress, assemblies, or conventions, by having had experience in national concerns, will be able and useful counsellors; and the whole, being empowered by the people, will have a truly legal authority.

The conferring members being met, let their business be to frame a Continental Charter, or Charter of the United Colonies, answering to what is called the Magna Charta of England; fixing the number and manner of choosing Members of Congress, Members of Assembly, with their date of sitting, and drawing the line of business and jurisdiction between them; always remembering, that our strength is continental, not provincial; securing freedom and property to all men, and, above all things, the free exercise of religion, according to conscience; with

such other matter as is necessary for a charter to contain. Immediately after which the said conference to dissolve, and the bodies which shall be chosen, conformably to the said charter, to be the legislators and governors of this continent for the time being: whose peace and happiness may God preserve! Amen.

But where, say some, is the King of America? I will tell you, friend, he reigns above, and does not make havoc of mankind, like the Royal Brute of Britain. Yet, that we may not appear to be defective even in earthly honours, let a day be solemnly set apart for proclaiming the charter; let it be brought forth, placed on the divine law, the word of God; let a crown be placed thereon, by which the world may know that so far we approve of monarchy, that, in America, The Law is King. For as in absolute governments the King is law, so in free countries the Law ought to be the king; and there ought to be no other. But lest any ill use should afterwards arise, let the crown, at the conclusion of the ceremony, be demolished, and scattered among the people, whose right it is.

O ye that love mankind—ye that dare oppose, not only the tyranny, but the tyrant, stand forth; every spot of the old world is overrun with oppression. Freedom hath been hunted round the globe—Asia and Africa have long expelled her; Europe regards her like a stranger, and England hath given her warning to depart. O! receive the fugitive, and prepare in time an asylum for mankind.

Appendix

Since the publication of the first edition of this pamphlet, or rather on the same day on which it came out, the King's Speech made its appearance in this city. Had the spirit of prophecy directed the birth of this production, it could not have brought it forth at a more seasonable juncture, or a more necessary time. The bloody-mindedness of the one, shews the necessity of pursuing the doctrine of the other. Men read by way of revenge. And the Speech, instead of terrifying, prepared a way for the manly principles of independence.

Ceremony, and even silence, from whatever motive they may arrive, have a hurtful tendency, when they give the least degree of countenance to base and wicked performances: wherefore, if this wicked maxim be admitted, it naturally follows, that the King's Speech, as being a piece of Finished Villainy, deserved, and still deserves, a general execration, both by the congress and the people. Yet, as the domestic tranquility

of a nation depends greatly on the chastity of what may properly be called National Manners, it is often better to pass some things over in silent disdain, than to make use of some new methods of dislike, as might introduce the least innovation on that guardian of our safety. And, perhaps, it is chiefly owing to this prudent delicacy, that the King's Speech hath not, before now, suffered a public execration. The Speech, if it may be called one, is nothing better than a wilful, audacious libel against the truth, the common good, and the existence of mankind; and is a formal and pompous method of offering up human sacrifices to the pride of tyrants. But this general massacre of mankind is one of the privileges, and the certain consequences of Kings; for as Nature knows them not, they know not her; and although they are beings of our own creating, they know not us, and are become the gods of their creators. The Speech hath one good quality, which is, that it is not calculated to deceive; neither can we, even if we would, be deceived by it; brutality and tyranny appear on the face of it. It leaves us at no loss; and every line convinces even in the moment of reading, that he who hunts the woods for prey, the naked and untutored Indian, is less a savage than the King of Britain.

Sir John Dalrymple, the putative father of a whining jesuitical piece, fallaciously called, "The Address of the People of England to the Inhabitants of America," hath, perhaps from a vain supposition that the people here were to be frightened at the pomp and description of a king, given (though very unwisely on his part) the real character of the present one. "But," says the writer, "if you are inclined to pay compliments to an administration, which we do not complain of," (meaning the Marquis of Rockingham's, at the repeal of the Stamp Act) "it is very unfair in you to withhold them from that prince, by whose nod alone they were permitted to do any thing." This is Toryism with a witness! Here is idolatry even without a mask: and he who can calmly hear and digest such doctrine, hath forfeited his claim to rationality—an apostate from the order of manhood—and ought to be considered as one who hath not only given up the proper dignity of man, but sunk himself beneath the rank of animals, and contemptibly crawls through the world like a worm.

It is now the interest of America to provide for herself. She hath already a large and young family, whom it is more her duty to take care of, than to be granting away her property to support a power who

is become a reproach to the name of men and christians.—Ye, whose office is to watch over the morals of a nation, of whatever sect or denomination ye are of, as well as ye who are more immediately the guardians of the public liberty, if ye wish to preserve your native country uncontaminated by European corruption, ye must in secret wish a separation. But, leaving the moral part to private reflection, I shall chiefly confine my farther remarks to the following heads:—

First. That it is the interest of America to be separated from Britain.

Secondly. Which is the easiest and most practicable plan, Reconciliation or Independence? with some occasional remarks.

In support of the first, I could, if I judged it proper, produce the opinion of some of the ablest and most experienced men on this continent, and whose sentiments on that head are not yet publicly known. It is in reality a self-evident position; for no nation in a state of foreign dependence, limited in its commerce, and cramped and fettered in its legislative powers, can ever arrive at any material eminence. America doth not yet know what opulence is; and although the progress which she hath made stands unparalleled in the history of other nations, it is but childhood, compared with what she would be capable of arriving at, had she, as she ought to have, the legislative power in her own hands. England is at this time proudly coveting what would do her no good were she to accomplish it, and the continent hesitating on a matter which will be her final ruin if neglected. It is the commerce, and not the conquest of America, by which England is to be benefited; and that would in a great measure continue, were the countries as independent of each other as France and Spain; because, in many articles, neither can go to a better market. But it is the independence of this country on Britain or any other, which is now the main and only object worthy of contention; and which, like all other truths discovered by necessity, will appear clearer and stronger every day.

First. Because it will come to that, one time or other.

Secondly. Because the longer it is delayed, the harder it will be to accomplish.

I have frequently amused myself, both in public and private companies, with silently remarking the specious errors of those who speak without reflection. And among the many which I have heard, the following seems the most general, viz., That, had this rupture happened forty or fifty years hence, instead of now, the continent would have been

more able to have shaken off the dependence. To which I reply, that our military ability, at this time, arises from the experience gained in the last war, and which, in forty or fifty years' time, would have been totally extinct. The continent would not, by that time, have had a general, or even a military officer left; and we, or those who may succeed us, would have been as ignorant of martial matters as the ancient Indians. And this single position, closely attended to, will unanswerably prove, that the present time is preferable to all others. The argument turns thus:—At the conclusion of the last war, we had experience, but wanted numbers; and, forty or fifty years hence, we shall have numbers without experience; wherefore, the proper point of time must be some particular point between the two extremes, in which a sufficiency of the former remains, and a proper increase of the later is obtained: and that point of time is the present time.

The reader will pardon this digression, as it does not properly come under the head I first set out with, and to which I shall again return by the following position, viz.:—

Should affairs be patched up with Britain, and she to remain the governing and sovereign power of America (which, as matters are now circumstanced, is giving us the point entirely), we shall deprive ourselves of the very means of sinking the debt we have or may contract. The value of the back-lands—which some of the provinces are clandestinely deprived of, by the unjust extension of the limits of Canada—valued only at five pounds sterling per hundred acres, amounts to upwards of twenty-five millions, Pennsylvania currency; and the quit-rents, at one penny sterling per acre, to two millions yearly.

It is by the sale of those lands that the debt may be sunk without burden to any; and the quit-rent reserved thereon will always lessen and in time will wholly support the yearly expense of government. It matters not how long the debt is in paying, so that the lands, when sold, be applied to the discharge of it; and, for the execution of which, the congress for the time being will be the continental trustees.

I proceed, now, to the second head, viz., Which is the easiest and most practicable plan—Reconciliation, or Independence? With some occasional remarks.

He, who takes Nature for his guide, is not easily beaten out of his argument; and, on that ground, I answer, generally,—That Independence, being a Single Simple Line, contained within ourselves—and Reconciliation, a matter exceedingly perplexed and complicated, and in

which a treacherous, capricious court is to interfere—gives the answer without a doubt.

The present state of America is truly alarming to every man who is capable of reflection:—without law, without government, without any other mode of power than what is founded on and granted by courtesy—held together by an unexpected concurrence of sentiment, which is, nevertheless, subject to change, and which every secret enemy is endeavouring to dissolve. Our present condition is,—legislation without law, wisdom without a plan, a constitution without a name; and, what is strangely astonishing, perfect independence contending for dependence. The instance is without a precedent; the case never existed before; and who can tell what may be the event? The property of no man is secure in the present unbraced system of things; the mind of the multitude is left at random; and, seeing no fixed object before them, they pursue such as fancy or opinion starts. Nothing is criminal; there is no such thing as treason; wherefore, every one thinks himself at liberty to act as he pleases. The Tories dared not to have assembled offensively, had they known that their lives, by that act, were forfeited to the laws of the state. A line of distinction should be drawn between English soldiers taken in arms, and inhabitants of America taken in arms. The first are prisoners, but the latter traitors. The one forfeits his liberty, the other his head.

Notwithstanding our wisdom, there is a visible feebleness in some of our proceedings, which gives encouragement to dissensions. The continental belt is too loosely buckled; and if something is not done in time, it will be too late to do anything; and we shall fall into a state in which neither Reconciliation nor Independence will be practicable. The court and its worthless adherents are got at their old game of dividing the continent; and there are not wanting among us printers, who will be busy in spreading specious falsehoods. The artful and hypocritical letter which appeared a few months ago in two of the New York papers, and likewise in two others, is an evidence that there are men who want either judgment or honesty.

It is easy getting into holes and corners, and talking of reconciliation; but do such men seriously consider how difficult the task is, and how dangerous it may prove, should the continent divide thereon? Do they take within their view all the various orders of men whose situations and circumstances, as well as their own, are to be considered therein? Do they put themselves in the place of the sufferer whose

all is already gone, and of the soldier who hath quitted all for the defence of his country? If their ill-judged moderation be suited to their own private situations only, regardless of others, the event will convince them, "that they are reckoning without their host."

Put us, some say, on the footing we were on in sixty-three. To which I answer, the request is not now in the power of Britain to comply with, neither will she propose it: but if it were, and even should be granted, I ask, as a reasonable question, By what means is such a corrupt and faithless court to be kept to its engagements? Another parliament—nay, even the present—may hereafter, repeal the obligation, on the pretence of its being violently obtained, or unwisely granted; and, in that case, where is our redress? No going to law with nations; cannon are the barristers of crowns; and the sword, not of justice, but of war, decides the suit. To be on the footing of sixty-three, it is not sufficient that the laws only be put on the same state, but that our circumstances likewise be put on the same state:—our burnt and destroyed towns repaired, or built up; our private losses made good; our public debts (contracted for defence) discharged:—otherwise, we shall be millions worse than we were at that enviable period. Such a request, had it been complied with a year ago, would have won the heart and soul of the continent: but it is now too late—"the Rubicon is passed."

Besides, the taking up arms merely to enforce the repeal of a pecuniary law, seems as unwarrantable by the divine law, and as repugnant to human feelings, as the taking up arms to enforce obedience thereto. The object on either side doth not justify the means; for the lives of men are too valuable to be cast away on such trifles. It is the violence which is done and threatened to our persons; the destruction of our property by an armed force; the invasion of our country by fire and sword, which conscientiously qualifies the use of arms; and the instant in which such a mode of defense became necessary, all subjection to Britain ought to have ceased; and the independency of America should have been considered as dating its era from, and published by, the first musket that was fired against her. This line is a line of consistency, neither drawn by caprice, nor extended by ambition; but produced by a chain of events, of which the colonies were not the authors.

I shall conclude these remarks with the following timely and well-intended hints. We ought to reflect, that there are three different ways by which an independency can hereafter be effected; and that one of those three will one day or other be the fate of America; viz. By the legal

voice of the people in congress, by a military power, or by a mob. It may not always happen that our soldiers are citizens, and the multitude a body of reasonable men. Virtue, as I have already remarked, is not hereditary—neither is it perpetual. Should an independency be brought about by the first of these means, we have every opportunity, and every encouragement before us to form the noblest, purest constitution, on the face of the earth. We have it in our power to begin the world over again. A situation, similar to the present, hath not happened since the days of Noah, till now. The birthday of a new world is at hand, and a race of men—perhaps as numerous as all Europe contains—are to receive their portion of freedom from the event of a few months. The reflection is awful; and, in this point of view, how trifling, how ridiculous, do the little paltry cavillings of a few weak or interested men appear, when weighed against the business of a world!

Should we neglect the present favourable period, and an independence be hereafter effected by any other means, we must charge the consequence to ourselves—or to those, rather, whose narrow and prejudiced souls are habitually opposing the measure, without either enquiring or reflecting. There are reasons to be given in support of independence, which men should rather privately think of, than he publicly told of. We ought not now to be debating whether we shall be independent or not, but anxious to accomplish it on a firm, secure, and honourable basis, and uneasy rather that it is not yet begun upon. Every day convinces us of its necessity. Even the Tories (if such beings yet remain among us) should, of all men, be the most solicitous to promote it; for, as the appointment of committees at first protected them from popular rage, so a wise and well-established form of government will be the only certain means of continuing it securely to them. Wherefore, if they have not virtue enough to be Whigs, they ought to have prudence enough to wish for independence.

In short, independence is the only bond that can tie and keep us together. We shall then see our object; and our ears will be legally shut against the schemes of an intriguing, as well as a cruel enemy. We shall then, too, be on a proper footing to treat with Britain; for there is reason to conclude, that the pride of that court will be less hurt by treating with the American States for terms of peace, than with those whom she denominates "rebellious subjects," for terms of accommodation. It is our delaying it that encourages her to hope for conquest, and our backwardness tends only to prolong the war. As we have, without

any good effect therefrom, withheld our trade to obtain a redress of our grievances, let us now try the alternative, by independently redressing them ourselves, and then offering to open the trade. The mercantile and reasonable part in England will be still with us, because peace with trade is preferable to war without it; and if this offer be not accepted, other courts may be applied to.

On these grounds I rest the matter. And, as no offer hath yet been made to refute the doctrine contained in the former editions of this pamphlet, it is a negative proof, that either the doctrine cannot be refuted, or, that the party in favour of it are too numerous to be opposed. Wherefore, instead of gazing at each other with suspicious or doubtful curiosity, let each of us hold out to his neighbour the hearty hand of friendship, and unite in drawing a line, which, like an act of oblivion, shall bury in forgetfulness every former dissension. Let the names of Whig and Tory be extinct; and let none other be heard among us, than those of a good citizen, an open and resolute friend, and a virtuous supporter of the Rights of Mankind, and of the Free and Independent States of America.

THOMAS JEFFERSON

Thomas Jefferson was born April 2, 1743, in Albemarle County, Virginia. His father was an unlettered planter, but Thomas received a good education at William and Mary's college. He was graduated in 1762 and entered the bar in 1767.

In 1768 he was elected to the Virginia House of Burgesses, but served only four days before the house was closed by the governor on account of its protest against the levying of customs. In 1774 he composed for the deputies to be sent to the general congress the set of instructions known as his "Summary View of the Rights of America." These took the high ground that the colonies were as independent of Parliament as Scotland before the union, that the king was the head that alone rose above the independent parts of the empire. The Declaration of Independence, written by him two years later, was the logical result of this principle.

From 1776 to 1797 Jefferson was busy as a member of the Virginia House. His work here was in some ways the most important of his life. He got the English system of inheritance by primogeniture and entail abolished, established freedom of conscience in religion, and passed a bill forbidding the further importation of slaves.

He was elected governor in 1779. Virginia was helpless before Arnold, Cornwallis, and Tarleton, and Jefferson was for a time blamed for her defenselessness, but was later fully exonerated by the legislature, because he had acted with Washington in throwing all his resources to the support of the northern forces.

From 1784 to 1790 Jefferson was in Paris, but returned in the latter year to take the office of Secretary of State. Gradually a difference of principles became evident between Hamilton and himself. Hamilton favored a strong central government,—in the Federal convention he had spoken for a life tenure of office for the President. Jefferson wanted to put all power in the hands of the people. He resigned December 31, 1793, and five years later became so fearful that the Alien and Sedition Acts were but the sign of the development of the central government into a tyranny that he went to the other extreme and drafted the Kentucky Resolutions, which are the very essence of state sovereignty.

He was elected President through his popularity with the common people, as opposed to the colonial aristocracy which they felt were hand in hand with the Federalists, and lived throughout his two terms with almost ostentatious simplicity. The most important act of his administration was the purchase of Louisiana—made whether the Constitution would permit it or not.

He retired in 1809, but for the rest of his life was the leader of his party. Madison and Monroe were both his worthy disciples. He died in 1826.

A SUMMARY VIEW OF THE RIGHTS OF BRITISH AMERICA

Resolved, that it be an instruction to the said deputies, when assembled in general congress with the deputies from the other states of British America, to propose to the said congress that an humble and dutiful address be presented to his Majesty, begging leave to lay before

him, as Chief Magistrate of the British empire, the united complaints of his Majesty's subjects in America; complaints which are excited by many unwarrantable encroachments and usurpations, attempted to be made by the Legislature of one part of the empire, upon those rights which God and the laws have given equally and independently to all. To represent to his Majesty that these his states have often individually made humble application to his imperial throne to obtain, through its intervention, some redress of their injured rights, to none of which was ever even an answer condescended; humbly to hope that this their joint address, penned in the language of truth, and divested of those expressions of servility which would persuade his Majesty that we were asking favours, and not rights, shall obtain from his Majesty a more respectful acceptance. And this his Majesty will think we have reason to expect when he reflects that he is no more than the chief officer of the people, appointed by the laws, and circumscribed with definite powers, to assist in working the great machine of government, erected for their use, and consequently subject [6] to their superintendence. And in order that these our rights, as well as the invasions of them, may be laid more fully before his Majesty, to take a view of them from the origin and first settlement of these countries.

To remind him that our ancestors, before their emigration to America, were the free inhabitants of the British dominions in Europe, and possessed a right which nature has given to all men, of departing from the country in which chance, not choice, has placed them, of going in quest of new habitations, and of there establishing new societies, under such laws and regulations as to them shall seem most likely to promote public happiness. That their Saxon ancestors had, under this universal law, in like manner left their native wilds and woods in the north of Europe, had possessed themselves of the island of Britain, then less charged with inhabitants, and had established there that system of laws which has so long been the glory and protection of that country. Nor was ever any claim of superiority or dependence asserted over them by that mother country from which they had migrated; and were such a claim made, it is believed that his Majesty's subjects in Great Britain have too firm a feeling of the rights derived to them from their ancestors, to bow down the sovereignty of their state before such visionary pretensions. And it is thought that no circumstance has occurred to distinguish materially the British from the Saxon emigration. America was conquered, and her settlement made, and firmly established, at

the expense of individuals, and not of the British public. Their own blood was spilt in acquiring lands for their settlements, their own fortunes expended in making that settlement effectual; for themselves they fought, for themselves they conquered, and for themselves alone they have right to hold. Not a shilling was ever issued from the public treasures of his Majesty, or his ancestors, for their assistance, till, of very late times, after the colonies had become established on a firm and permanent footing. That then, indeed, having become valuable to Great Britain for her commercial purposes, his Parliament [7] was pleased to lend them assistance against the enemy, who would fain have drawn to herself the benefits of their commerce, to the great aggrandizement of herself, and danger of Great Britain. Such assistance, and in such circumstances, they had often before given to Portugal, and other allied states, with whom they carry on a commercial intercourse; yet these states never supposed, that by calling in her aid, they thereby submitted themselves to her sovereignty. Had such terms been proposed, they would have rejected them with disdain, and trusted for better to the moderation of their enemies, or to a vigorous exertion of their own force. We do not, however, mean to underrate those aids, which to us were doubtless valuable, on whatever principles granted; but we would show that they cannot give a title to that authority which the British Parliament would arrogate over us, and that they may amply be repaid by our giving to the inhabitants of Great Britain such exclusive privileges in trade as may be advantageous to them, and at the same time not too restrictive to ourselves. That settlements having been thus effected in the wilds of America, the emigrants thought proper to adopt that system of laws under which they had hitherto lived in the mother country, and to continue their union with her by submitting themselves to the same common sovereign, who was thereby made the central link connecting the several parts of the empire thus newly multiplied.

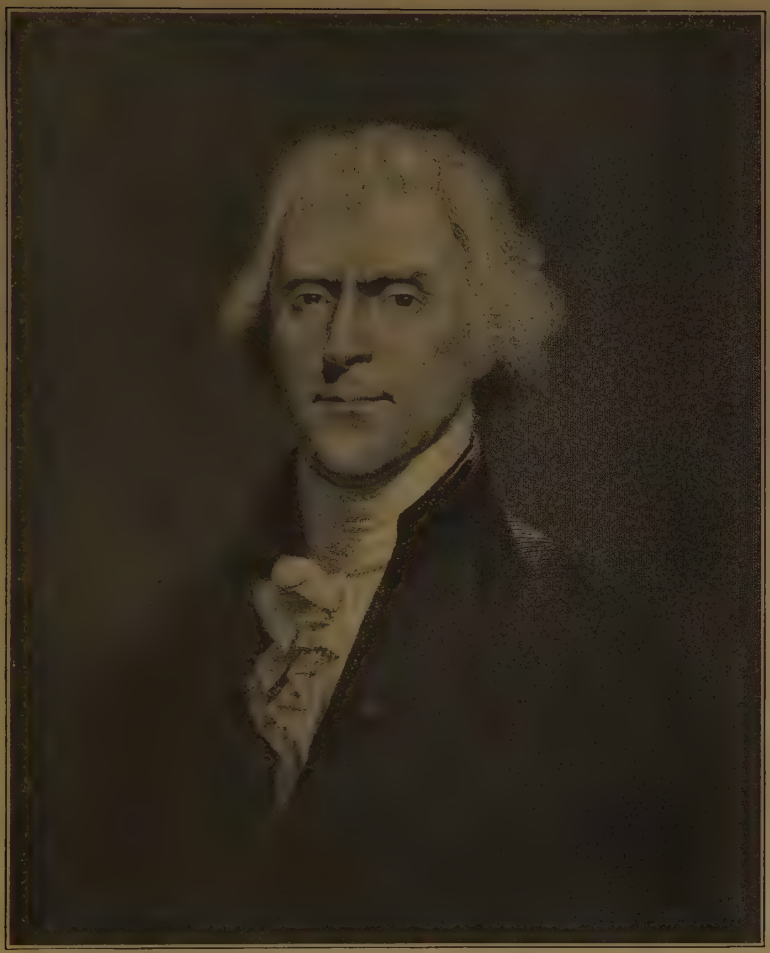
But that not long were they permitted, however far they thought themselves removed from the hand of oppression, to hold undisturbed the rights thus acquired, at the hazard of their lives and loss of their fortunes. A family of princes was then on the British throne, whose treasonable crimes against their people brought on them afterwards the exertion of those sacred and sovereign rights of punishment reserved in the hands of the people for cases of extreme necessity, and judged by the constitution unsafe to be delegated to any other judicature.

While every day brought forth some new and unjustifiable exertion of power over their subjects on that side of the water, it was not [8] to be expected that those here, much less able at that time to oppose the designs of despotism, should be exempted from injury.

Accordingly that country, which had been acquired by the lives, the labours, and the fortunes of individual adventurers, was by these princes, several times parted out and distributed among the favourites and followers of their fortunes, and, by an assumed right to the crown alone, were erected into distinct and independent governments; a measure which it is believed his Majesty's prudence and understanding would prevent him from imitating at this day, as no exercise of such power, of dividing and dismembering a country, has ever occurred in his Majesty's realm of England, though now of very ancient standing; nor could it be justified or acquiesced under there, or in any other part of his Majesty's empire.

That the exercise of a free trade with all parts of the world, possessed by the American colonists, as of natural right, and which no law of their own had taken away or abridged, was next the object of unjust encroachment. Some of the colonies having thought proper to continue the administration of their government in the name and under the authority of his Majesty King Charles the First, whom, notwithstanding his late deposition by the commonwealth of England, they continued in the sovereignty of their state; the Parliament for the commonwealth took the same in high offense, and assumed upon themselves the power of prohibiting their trade with all other parts of the world, except the island of Great Britain. This arbitrary act, however, they soon recalled, and by [9] solemn treaty, entered into on the 12th day of March, 1651, between the said commonwealth by their commissioners, and the colony of Virginia by their house of burgesses, it was expressly stipulated, by the 8th article of the said treaty, that they should have "free trade as the people of England do enjoy to all places and with all nations, according to the laws of that commonwealth." But that, upon the restoration of his majesty King Charles the Second, their rights of free commerce fell once more a victim to arbitrary power; and by several acts of his reign, as well as of some of his successors, the trade of the colonies was laid under such restrictions as show what hopes they might form from the justice of a British Parliament, were its uncontrolled power admitted over these states. History has informed us that bodies of men, as well as individuals, are susceptible of the spirit of tyranny.

A view of these acts of Parliament for regulation, as it has been affectedly called, of the American trade, if all other evidence were removed out of the case, would undeniably evince the truth of this observation. Besides the duties they impose on our articles of export and import, they prohibit our going to any markets northward of Cape Finisterre, in the kingdom of Spain, for the sale of commodities which Great Britain will not take from us, and for the purchase of others, with which she cannot supply us, and that for no other than the arbitrary purposes of purchasing for themselves, by a sacrifice of our rights and interests, certain privileges in their commerce with an allied state, who in confidence that their exclusive trade with America will be continued, while the principles and power of the British parliament be the same, have indulged themselves in every exorbitance which their avarice could dictate, or our necessities extort; have raised their commodities called for in America, to the double and treble of what they sold for before such exclusive privileges were given them, and of what better commodities of the same kind would cost us elsewhere, and at the [10] same time give us much less for what we could carry thither than might be had at more convenient ports. That these acts prohibit us from carrying in quest of other purchasers the surplus of our tobaccos remaining after the consumption of Great Britain is supplied; so that we must leave them with the British merchant for whatever he will please to allow us, to be by him reshipped to foreign markets, where he will reap the benefits of making sale of them for full value. That to heighten still the idea of parliamentary justice, and to show with what moderation they are like to exercise power, where themselves are to feel no part of its weight, we take leave to mention to his Majesty certain other acts of British Parliament, by which they would prohibit us from manufacturing for our own use the articles we raise on our own lands with our own labour. By an act passed in the fifth year of the reign of his late Majesty King George the Second, an American subject is forbidden to make a hat for himself of the fur which he has taken perhaps on his own soil; an instance of despotism to which no parallel can be produced in the most arbitrary ages of British history. By one other act passed in the twenty-third year of the same reign, the iron which we make we are forbidden to manufacture, and heavy as that article is, and necessary in every branch of husbandry, besides commission and insurance, we are to pay freight for it to Great Britain, and freight for it back again, for the purpose of supporting not men, but machines,



in the island of Great Britain. In the same spirit of equal and impartial legislation is to be viewed the act of parliament passed in the fifth year of the same reign, by which American lands are made subject to the demands of British creditors, while their own lands were still continued unanswerable for their debts; from which one of these conclusions must necessarily follow, either that justice is not the same in America as in Britain, or else that the British Parliament pay less regard to it here than there. But that we do not point out to his Majesty the injustice of these acts, with intent to rest on that principle the cause of their [11] nullity; but to show that experience confirms the propriety of those political principles which exempt us from the jurisdiction of the British Parliament. The true ground on which we declare these acts void is, that the British Parliament has no right to exercise its authority over us.

That these exercises of usurped power have not been confined to instances alone, in which themselves were interested, but they have also intermeddled with the regulation of the internal affairs of the colonies. The act of the 9th of Anne for establishing a postoffice in America seems to have had little connection with British convenience, except that of accommodating his Majesty's ministers and favourites with the sale of a lucrative and easy office.

That thus we have hastened through the reigns which preceded his Majesty's during which the violations of our rights were less alarming, because repeated at more distant intervals than that rapid and bold succession of injuries which is likely to distinguish the present from all other periods of American story. Scarcely have our minds been able to emerge from the astonishment into which one stroke of parliamentary thunder had involved us, before another more heavy, and more alarming, is fallen upon us. Single acts of tyranny may be ascribed to the accidental opinion of a day; but a series of oppressions begun at a distinguished period, and pursued, unalterably through every change of ministers, too plainly prove a deliberate and systematical plan of reducing us to slavery.—A Summary View.

THE PASSING OF THE DECLARATION

I prepared a draught of the declaration committed to us. It was too strong for Mr. Dickinson. He still retained the hope of reconciliation

with the mother country, and was unwilling it should be lessened by offensive statements. He was so honest a man, and so able a one that he was greatly indulged even by those who could not feel his scruples. We therefore requested him to take the paper, and put it into a form he could approve. He did so, preparing an entire new statement, and preserving of the former only the last four paragraphs and half of the preceding one. We approved and reported it to Congress, who accepted it. Congress gave a signal proof of their indulgence to Mr. Dickinson, and of their great desire not to go too fast for any respectable part of our body, in permitting him to draw their second petition to the King according to his own ideas, and passing it with scarcely any amendment. The disgust against this humility was general; and Mr. Dickinson's delight at its passage was the only circumstance which reconciled them to it. The vote being passed, although further observation on it was out of order, he could not refrain from arising and expressing his satisfaction and concluded by saying, "There is but one word, Mr. President, in the paper which I disapprove, and that is the word Congress," on which Ben Harrison rose and said, "There is but one word in the paper, Mr. President, of which I approve, and that is the word Congress."

On the 22d of July, 1776, Dr. Franklin, Mr. Adams, R. H. Lee, and myself, were appointed a committee to consider and report on Lord North's conciliatory resolution. The answer of the Virginia assembly on that subject having been approved I was requested by the committee to prepare this report, which will account for the similarity of feature in the two instruments.

On the 15th of May, 1776, the convention of Virginia instructed their delegates in Congress to propose to that body to declare the colonies independent of Great Britain, and appointed a committee to prepare a declaration of rights and plan of government.

In Congress, Friday, June 7, 1776. The delegates from Virginia moved, in obedience to instructions from their constituents, that the Congress should declare that these united colonies are and of right ought to be free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is and ought to be, totally dissolved; that measures should be immediately taken for procuring the assistance of foreign powers, and a confederation be formed to bind the colonies more closely togeteher.

The house being obliged to attend at that time to some other busi-

ness, the proposition was referred to the next day, when the members were ordered to attend punctually at ten o'clock.

Saturday, June 8. They proceeded to take it into consideration and referred it to a committee of the whole, into which they immediately resolved themselves, and passed that day and Monday, the 10th, in debating on the subject.

It was argued by Wilson, Robert R. Livingston, E. Rutledge, Dickinson and others

That though they were friends to the measure themselves, and saw the impossibility that we should ever again be united with Great Britain, yet they were against adopting them at this time:

That the conduct we had formerly observed was wise and proper now, of deferring to take any capital step till the voice of the people drove us into it:

That they were our power, and without them our declarations could not be carried into effect:

That the people of the middle colonies (Maryland, Delaware, Pennsylvania, the Jerseys and New York) were not yet ripe for bidding adieu to British connection, but that they were fast ripening and in a short time would join in the general voice of America:

That the resolution entered into by this house on the 15th of May for suppressing the exercise of all powers derived from the crown, had shown, by the ferment into which it had thrown these middle colonies, that they had not yet accommodated their minds to a separation from the mother country:

That some of them had expressly forbidden their delegates to consent to such a declaration, and others had given no instructions, and consequently no powers to give such consent:

That if the delegates of any particular colony had no power to declare such colony independent, certain they were the others could not declare it for them; the colonies being as yet perfectly independent of each other:

That the assembly of Pennsylvania was now sitting above stairs, their convention would sit within a few days, the convention of New York was now sitting, and those of the Jerseys and Delaware counties would meet on the Monday following, and it was probable these bodies would take up the question of independence and would declare to their delegates the voice of their state:

That if such a declaration should now be agreed to, these delegates must retire and possibly their colonies might secede from the Union:

That such a secession would weaken us more than could be compensated by any foreign alliance:

That in the event of such a division, foreign powers would either refuse to join themselves to our fortunes, or, having us so much in their power as that desperate declaration would place us, they would insist on terms proportionately more hard and prejudicial:

That we had little reason to expect an alliance with those to whom alone as yet we had cast our eyes:

That France and Spain had reason to be jealous of that rising power which would one day certainly strip them of all their American possessions:

That it was more likely they should form a connection with the British court, who, if they should find themselves unable otherwise to extricate themselves from their difficulties, would agree to a partition of our territories, restoring Canada to France, and the Floridas to Spain, to accomplish for themselves a recovery of these colonies:

That it would not be long before we should receive certain information of the disposition of the French court, from the agent whom we had sent to Paris for that purpose:

That if this disposition should be favorable, by waiting the event of the present campaign, which we all hoped would be successful, we should have reason to expect an alliance on better terms:

That this would in fact work no delay of any effectual aid from such ally, as, from the advance of the season and distance of our situation, it was impossible we could receive any assistance during this campaign:

That it was prudent to fix among ourselves the terms on which we should form alliance, before we declared we would form one at all events:

And that if these were agreed on, and our Declaration of Independence ready by the time our ambassador should be prepared to sail, it would be as well as to go into that Declaration at this day:

On the other side it was urged by J. Adams, Lee, Wythe, and others

That no gentleman had argued against the policy or the right of separation from Britain, nor had supposed it possible we should ever renew our connection; that they had only opposed its being now declared:

That the question was not whether, by a declaration of independence, we should make ourselves what we are not; but whether we should declare a fact which already exists:

That as to the people or Parliament of England, we had always been independent of them, their restraints on our trade deriving efficacy from our acquiescence only, and not from any rights they possessed of imposing them, and that so far our connection had been federal only, and was now dissolved by the commencement of hostilities:

That as to the King, we had been bound to him by allegiance, but that this bond was now dissolved by his assent to the late act of Parliament, by which he declares us out of his protection, and by his levying war on us, a fact which had long ago proved us out of his protection; it being a certain position in law that allegiance and protection are reciprocal, the one ceasing when the other is withdrawn:

That James the Second never declared the people of England out of his protection, yet his actions proved it and the Parliament declared it:

No delegates then can be denied, or ever want, a power of declaring an existing truth:

That the delegates from the Delaware counties having declared their constituents ready to join, there are only two colonies, Pennsyl-

vania and Maryland, whose delegates are absolutely tied up, and that these had by their instructions only reserved a right of confirming or rejecting the measure:

That the instructions from Pennsylvania might be accounted for from the times in which they were drawn, near a twelvemonth ago, since which the face of affairs has totally changed:

That within that time it had become apparent that Britain was determined to accept nothing less than a *carte blanche,* and that the King's answer to the Lord Mayor, aldermen and common council of London, which had come to hand four days ago, must have satisfied everyone of this point:

That the people wait for us to lead the way:

That they are in favour of the measure, though the instructions given by some of their representatives are not:

That the voice of the representatives is not always consonant with the voice of the people, and that this is remarkably the case in these middle colonies:

That the effect of the resolution of the 15th of May has proved this, which, raising the murmurs of some in the colonies of Pennsylvania and Maryland, called forth the opposing voice of the freer part of the people, and proved them to be the majority, even in these colonies:

That the backwardness of these two colonies might be ascribed partly to the influence of proprietary power and connections, and partly to their having not yet been attacked by the enemy:

That these causes were not likely to be soon removed, as there seemed no probability that the enemy would make either of these the seat of this summer's war:

That it would be vain to wait either weeks or months for perfect unanimity, since it was impossible that all men should ever become of one sentiment on any question:

That the conduct of some colonies from the beginning of this contest had given reason to suspect it was their settled policy to keep in the rear of the confederacy, that their particular prospect might be better, even in the worst event:

That therefore it was necessary for those colonies who had thrown themselves forward and hazarded all from the beginning, to come forward now also, and put all again to their own hazard:

That the history of the Dutch revolution, of whom three states only confederated at first, proved that a secession of some colonies would not be so dangerous as some apprehended:

That a declaration of independence alone could render it consistent with European delicacy for European powers to treat with us, or even to receive an ambassador from us:

That till this they would not receive our vessels into their ports, nor acknowledge the adjudications of our courts of admiralty to be legitimate, in cases of capture of British vessels:

That though France and Spain may be jealous of our rising power, they must think it will be much more formidable with the addition of Great Britain; and will therefore see it their interest to prevent a coalition; but should they refuse, we shall be but where we are; whereas

without trying we shall never know whether they will aid us or not:

That the present campaign may be unsuccessful, and therefore we had better propose an alliance while our affairs wear a hopeful aspect:

That to await the event of this campaign will certainly work delay, because during this summer France may assist us effectually by cutting off those supplies of provisions from England and Ireland on which the enemy's armies here are to depend: or by setting in motion the great power they have collected in the West Indies, and calling our enemy to the defense of the possessions they have there:

That it would be idle to lose time in settling the terms of alliance, till we had first determined we would enter into alliance:

That it is necessary to lose no time in opening a trade for our people, who will want clothes, and will want money, too, for the payment of taxes:

And that the only misfortune is that we did not enter into alliance with France six months sooner, as besides opening their ports for the vent of our last year's produce, they might have marched an army into Germany and prevented the petty princes there from selling their unhappy subjects to subdue us.

It appearing in the course of these debates that the colonies of New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina were not yet matured for falling from the parent stem, but that they were fast advancing to that state, it was thought most prudent to wait a while for them, and to postpone the final decision to July 1, but that this might occasion as little delay as possible a committee was appointed to prepare a declaration of independence. The committee were J. Adams, Dr. Franklin, Roger Sherman, Robert R. Livingston and myself. Committees were also appointed at the same time to prepare a plan of confederation for the colonies, and to state the terms proper to be proposed for foreign alliance. The committee for drawing the declaration of independence desired me to do it. It was accordingly done, and being approved by them, I reported it to the house on Friday, the 28th of June, when it was read and ordered to lie on the table. On Monday, the 1st of July, the house resolved itself into a committee of the whole and resumed the consideration of the original motion made by the delegates of Virginia, which being again debated through the day, was carried in the affirmative by the votes of New Hampshire, Connecticut, Massachusetts, Rhode Island, New Jersey, Maryland, Virginia, North Carolina, and Georgia. South Caroline and Pennsylvania voted against it. Delaware having but two members present, they were divided. The delegates for New York declared they were for it themselves and were assured their constituents were for it, but that their instructions having been drawn near a twelvemonth before, when recon-

ciliation was still the general object, they were enjoined by them to do nothing which should impede that object. They therefore thought themselves not justifiable in voting on either side, and asked leave to withdraw from the question, which was given them. The committee rose and reported their resolution to the house. Mr. Edward Rutledge of South Carolina then requested the determination might be put off to the next day, as he believed his colleagues, though they disapproved of the resolution, would then join in it for the sake of unanimity. The ultimate question whether the house would agree to the resolution of the committee was accordingly postponed to the next day, when it was again moved and South Carolina concurred in voting for it. In the meantime a third member had come post from the Delaware counties and turned the vote of that colony in favour of the resolution. Members of a different sentiment attending that morning from Pennsylvania also, their vote was changed, so that the whole 12 colonies who were authorized to vote at all, gave their voices for it; and within a few days the convention of New York approved of it, and thus supplied the void occasioned by the withdrawing of her delegates from the vote.

Congress proceeded the same day to consider the Declaration of Independence which had been reported and lain on the table the Friday preceding, and on Monday referred to a committee of the whole. The pusillanimous idea that we had friends in England worth keeping terms with, still haunted the minds of many. For this reason those passages which conveyed censures on the people of England were struck out, lest they should give them offense. The clause, too, reprobating the enslaving the inhabitants of Africa, was struck out in complaisance to South Carolina and Georgia, who had never attempted to restrain the importation of slaves, and who, on the contrary, still wished to continue it. Our northern brethren also, I believe, felt a little tender under those censures; for though their people have very few slaves themselves, yet they had been pretty considerable carriers of them to others. The debates having taken up the greater parts of the 2d, 3d and 4th days of July, were, in the evening of the last, closed, the declaration was reported by the committee, agreed to by the house, and signed by every member present except Mr. Dickinson.

JOHN ADAMS

JOHN ADAMS was born October 19, 1736, in the township of Braintree, Mass., where Quincy now stands. He chose an education rather than his share of the family estate, and his father sent him to Harvard in 1751. In 1755 he began studying law in Worcester, at the same time teaching school in the grammar school, and rose rapidly in his profession.

The first step he took in politics was to draft the resolutions of Braintree against the Stamp Act (1765). His popularity became so great that even his defense of the soldiers engaged in the so-called Boston Massacre did not lessen it. In 1774 he was sent to the general congress at Philadelphia. Before leaving, in a conference with Jonathan Sewell, an old friend then attorney-general, who endeavored to persuade him to take the side of England, he uttered the memorable words, "I know that Great Britain has determined on her system, and that very fact determines me on mine. You know I have been constant and uniform in opposition to her measures: the die is now cast; I have passed the Rubicon; to swim or sink, live or die, survive or perish with my country, is my unalterable determination."

Daniel Webster afterward made use of these words in his magnificent eulogy of Adams in his great Boston Monument speech. At the Continental Congress Adams was one of the leaders in getting the Declaration of Independence passed. From 1777 to 1778 he was in France with Franklin. In 1779 he negotiated a loan in Holland. From 1785 to 1787 he was ambassador to England. He served as Vice President under Washington, and was elected President in 1797.

At this time party feeling was running very high. The great war was on between the French Republic and her enemies, among them England. The French were practically demanding the aid of America. The Federalists were almost willing to fight for monarchical England, the Republicans under Jefferson were nearly ready to make war on the side of democratic France. Adams, following Washington's example, aimed at neutrality. The Federalists passed the Alien and Sedition

acts, controlling intriguing aliens resident in the country, and making it a crime to print false, scandalous, or malicious writings against the government. The latter law was harsh, sweeping, and it was doubtful whether it were constitutional. Jefferson opposed the power of the states in the Kentucky Resolutions to what he considered its tyranny. The Federalist party, representing the higher classes, national power, and a construction of the Constitution that would give the central government strength, was with all its ability, forced from power by the democratic, individual liberty-loving party of Jefferson.

Adams died on July 4, 1826, the same day as Jefferson, with whom he was again friends during the last of his life.

ON THE DECLARATION OF INDEPENDENCE

Yesterday the greatest question was decided which ever was debated in America, and a greater, perhaps, never was, nor will be decided among men. A resolution was passed, without one dissenting colony, 'that these United Colonies are, and of right ought to be, free and independent States, and as such they have, and of right ought to have, full power to make war, conclude peace, establish commerce, and to do all other acts and things which other States may rightfully do.' You will see, in a few days, a declaration setting forth the causes which have impelled us to this mighty revolution, and the reasons which will justify it in the sight of God and man. A plan of confederation will be taken up in a few days.

When I look back to the year 1761, and recollect the argument concerning writs of assistance in the superior court, which I have hitherto considered as the commencement of the controversy between Great Britain and America, and run through the whole period from that time to this, and recollect the series of political events, the chain of causes and effects, I am surprised at the suddenness as well as greatness of this revolution. Britain has been filled with folly, and America with wisdom. At least, this is my judgment. Time must determine. It is the will of heaven that the two countries should be sundered forever. It may be the will of heaven that America shall suffer calamities still more wasting, and distresses yet more dreadful. If this is to be the case, it will have this good effect at least; it will inspire us with many virtues which we have not, and correct many errors, follies, and vices, which threaten

to disturb, dishonor, and destroy us. The furnace of affliction produces refinement in States as well as individuals. And the new governments we are assuming, in every part, will require a purification from our vices, and an augmentation of our virtues, or they will be no blessings. The people will have unbounded power, and the people are extremely addicted to corruption and venality as well as the great. But I must submit all my hopes and fears to an overruling Providence, in which, unfashionable as the faith may be, I firmly believe.

Had a declaration of independency been made seven months ago, it would have been attended with many great and glorious effects. We might before this hour have formed alliances with foreign states. We should have mastered Quebec, and been in possession of Canada.

You will, perhaps, wonder how such a declaration would have influenced our affairs in Canada; but if I could write with freedom, I could easily convince you that it would, and explain to you the manner how. Many gentlemen in high stations and of great influence have been duped by the ministerial bubble of commissioners to treat. And in real, sincere expectation of this event, which they so fondly wished, they have been slow and languid in promoting measures for the reduction of that province. Others there are in the colonies, who really wished that our enterprise in Canada would be defeated, that the colonies might be brought into danger and distress between two fires, and be thus induced to submit. Others really wished to defeat the expedition to Canada, lest the conquest of it should elevate the minds of the people too much to hearken to those terms of reconciliation which they believed would be offered us. These jarring views, wishes, and designs occasioned an opposition to many salutary measures, which were proposed for the support of that expedition, and caused obstructions, embarrassments, and studied delays, which have finally lost us the province. All these causes, however, in conjunction, would not have disappointed us, if it had not been for a misfortune which could not be foreseen, and perhaps could not have been prevented. I mean the prevalence of the smallpox among our troops. This fatal pestilence completed our destruction. It is a frown of Providence upon us, which we ought to lay to heart.

But on the other hand, the delay of this declaration to this time has many great advantages attending it. The hopes of reconciliation, which were fondly entertained by multitudes of honest, well-meaning though weak and mistaken people, have been gradually, and at last, totally

extinguished. Time has been given for the whole people maturely to consider the great question of independence, and to ripen their judgments, dissipate their fears, and allure their hopes, by discussing it in newspapers and pamphlets, by debating it in assemblies, conventions, committees of safety and inspection, in town and county meetings, as well as in private conversations, so that the whole people, in every colony of the thirteen, have now adopted it as their own act. This will cement the Union, and avoid those heats, and perhaps convulsions, which might have been occasioned by such a declaration six months ago.

But the day is past. The second day of July, 1776, will be the most memorable epoch in the history of America. I am apt to believe that it will be celebrated by succeeding generations as the great anniversary festival. It ought to be commemorated as the day of deliverance, by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bonfires, and illuminations, from one end of this continent to the other, from this time forward, forevermore.

You will think me transported with enthusiasm, but I am not. I am well aware of the toil, and blood, and treasure that it will cost us to maintain this declaration, and support and defend these States. Yet, through all the gloom, I can see the rays of ravishing light and glory. I can see that the end is more than worth all the means. And that posterity will triumph in that day's transaction, even although we should rue it, which I trust in God we shall not.

THE FORMING OF THE CONSTITUTION OF THE UNITED STATES

THE FORMATION of the Constitution of the United States is one of the most important events in history. It gave mankind the first adequate type of a government by the people capable of being extended to the greatest of nations, and established the union of states on a foundation on which was actually reared a mighty empire. The journal of the convention that formed such a government is probably the most instructive treatise in constructive political science ever given to the world.

The Confederation had proved a weak failure, and in 1787 Congress recommended a convention of delegates from the states to amend the Articles of Confederation. The members of the convention were most of them the greatest men of their states. Of the names best known in the history of the time there were absent only Jefferson and John Adams, ambassadors in Europe; Patrick Henry, Samuel Adams, and Richard Henry Lee, because they did not approve its object.

The first plan to change the Articles of Confederation had been drawn up by Madison, but was presented by Randolph, both of Virginia. It was practically a new constitution. It allowed for two branches to congress. The House of Delegates was to be chosen by the people. This was a point of immense significance. The Senate was to be elected by the national House of Delegates from lists nominated by the legislatures. The number in each branch was to be proportional to population. The legislature was to be given the right to negative

state laws, but this was to be passed upon by a court of final appeal consisting of the President and part of the judiciary.

Charles Pinckney of South Carolina submitted to the convention a second plan. If the plan preserved is his, which is doubtful, its main differences from the Virginia plan were that senators were to be elected by the national House from citizens of each state at large, that money bills were to be originated only in the House, and that the judiciary only was to be the court of final appeal.

The convention took up the consideration of the Virginia plan. After much important discussion and amendments, the convention agreed to propositions in the following order: To placing the legislative power in two branches; electing the members of the House by the people; the originating of all laws by both branches; the establishment of a strong executive to be chosen *by the national legislature,* to consist of a single person, and to have the power of veto subject to the vote of two-thirds of the legislature; the establishment of a judiciary; the admission of new states; the choosing of the senate by the state legislatures; the right of suffrage to be according to such equitable representation as the number of the free inhabitants and three-fifths of all others; the right of suffrage to be *the same in each branch;* guaranteeing a republican government to each state; providing for amendments; providing for ratification by the states; giving the judiciary powers in national questions; appointing the judges by the Senate. At this juncture (June 13) a complete draft of the Constitution so far was brought in. The smaller states which had voted against the proposition of proportionate representation in both branches here took a decided stand that threatened to disrupt the convention. Mr. Patterson of New Jersey submitted a new plan keeping Congress the creation entirely of the states with equal representation for all. A determined debate followed. The convention was on the verge of dissolution. At last Oliver Ellsworth, Roger Sherman and Franklin suggested a compromise, and a committee appointed suggested that in the House representation should be proportional, in the Senate equal, and that all bills for raising money should originate in the House. After another earnest debate, the compromise was finally adopted by a vote of five states to four, Massachusetts tied, New York not voting because Yates and Lansing had thought the convention to be assuming altogether too much power and had returned home. Luther Martin of Maryland had also left in wrath.

From that time the work of the convention went comparatively

smoothly. Slaves, though the word is not used, were counted as three-fifths, as the second great compromise. As the third, the importation of slaves was prohibited after 1808, but Congress was given the power to regulate commerce, and there was to be free trade amongst the States. Practically the whole Constitution was again gone over, but it was at last passed as handed down to us and signed September 17, 1787.

Mason and Randolph of Virginia, and Gerry of Massachusetts would not sign, though Randolph afterwards heartily aided in its ratification by Virginia.

The Constitution now went to the Continental Congress for its approval. Richard Henry Lee of Virginia and Nathan Dane of Massachusetts opposed it, but it was carried under the leadership of Madison and young Henry Lee of Virginia and referred to the states for their ratification. The approval of nine states was to make it binding on the nine. A hot war of words was waged for and against the new Constitution. Delaware was the first to ratify (December 6, 1787,) and New Jersey was the third, both conventions going unanimously for the new Constitution because it would allow all states equal representation in the Senate. Pennsylvania came second, though after considerable opposition, by a vote of 46 to 23. Georgia followed unanimously, January 2, 1788. In Massachusetts there were many from Maine and the hills opposed to the new arrangement. So was Elbridge Gerry. Fisher, Ames, King, Parsons, Caleb Strong, and Bowdoin had to put forth all their efforts to hold the tide even. For a long time Samuel Adams was silent, but at last a general meeting of mechanics in favor of the Constitution convinced him that the common sense of the people was for it, and he put forth his great influence on its side. This, with the warning from Washington that it was the Constitution or disunion, tumult and disorder, carried the Massachusetts convention by the vote of 187 to 168. In Maryland Luther Martin and Samuel Chase were in opposition, but the Constitution was approved, 63 to 11. South Carolina followed by a vote of 149 to 73. In Virginia Patrick Henry was in favor of a separate Southern confederacy. Mason and Richard Henry Lee were also anti-Federalist. Randolph came out strong for the Constitution, though he had refused to sign it in the convention. Madison, whose plan of union was its basis, was its strongest advocate, and "Light-Horse Harry" Lee was an able supporter. John Marshall, the future Chief Justice, spoke for the Constitution with all the logical strength that was to make him famous. After three weeks discussion, the con-

vention ratified the new order of things by the close vote of 89 to 79, June 25. New Hampshire, which had once postponed the question to see what the others would do, had already fallen into line June 21.

In New York the struggle was fiercest. Lansing, Yates, and Clinton were rabid anti-Federals. Hamilton and Jay were the strongest of Federals. The papers of the Federalist were written and published to explain the Constitution. Week after week Hamilton argued almost daily before the hostile convention for federation, until finally Melancthon Smith, probably the strongest debater on the opposition, came over to his side. There was a proposition to ratify conditionally and later withdraw, if expedient, from the union. Hamilton asked Madison about it. They agreed it could never be done. The closeness of the struggle is shown by the fact that the vote of New York was only 30 to 27 for federation.

This made eleven states that had agreed to the Constitution. The effect of the opposition was to get the first amendments embodying a bill of rights passed by the first Congress.

The journal of the Federal convention that follows was made by Madison, but kept secret until his death (1836), when it was purchased by Congress and published by their order in 1840.

James Madison, who drafted the Virginia plan, was born in Prince George county, Virginia, March 16, 1751. He graduated from Princeton in 1771, and permanently injured his health by overstudy under President Witherspoon. He was a member of the Virginia assembly and served in the Continental Congress (1780-1783). He was one of the greatest promoters of the Federal convention, and the Virginia plan used as a basis for discussion was his. In the state convention and in the Federalist he showed himself, if Hamilton is not excepted, the ablest supporter of the new Constitution. He wrote the Virginia resolutions of 1798, but later contended that he had throughout the resolutions used "the states" in the plural to show that it would require a vote of three-fourths of the states to nullify constitutionally an act of Congress. This would make the resolutions much milder than the Kentucky resolutions or Calhoun's doctrine. He was Secretary of State under Jefferson and succeeded him as President in 1809. In the war of 1812, he seems not to have been decisive enough to be a good leader, and the firmer policy in the latter part of the war has often been credited to Monroe. Madison died June 28, 1836.

DEBATES IN THE FEDERAL CONVENTION OF 1787, HELD AT PHILADELPHIA

MONDAY, *May* 14, 1787,

Was the day fixed for the meeting of the deputies, in Convention, for revising the federal system of government. On that day a small number only had assembled. Seven states were not convened till

FRIDAY, *May* 25,

When the following members appeared: from

Massachusetts—Rufus King;

New York—Robert Yates and Alexander Hamilton;

New Jersey—David Brearly, William Churchill Houston, and William Patterson;

Pennsylvania—Robert Morris, Thomas Fitzsimons, James Wilson, and Gouverneur Morris;

Delaware—George Reed, Richard Basset, and Jacob Broom;

Virginia—George Washington, Edmund Randolph, John Blair, James Madison, George Mason, George Wythe, and James M'Clurg;

North Carolina—Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Hugh Williamson;

South Carolina—John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, and Pierce Butler;

Georgia—William Few.

Mr. ROBERT MORRIS informed the members assemblied that, by the instruction and in behalf of the deputation of Pennsylvania, he proposed GEORGE WASHINGTON, Esq., late commander-in-chief, for president of the Convention. Mr. JOHN RUTLEDGE seconded the motion, expressing his confidence that the choice would be unanimous; and observing, that the presence of General WASHINGTON forbade any observations on the occasion, which might otherwise be proper.

Gen. WASHINGTON was accordingly unanimously elected by ballot, and conducted to the chair by Mr. R. Morris and Mr. Rutledge, from which, in a very emphatic manner, he thanked the Convention for the honor they had conferred on him, reminded them of the novelty of the scene of business in which he was to act, lamented his want of better qualifications, and claimed the indulgence of the house towards the involuntary errors which his inexperience might occasion.

Mr. WILSON moved that a secretary be appointed, and nominated Mr. Temple Franklin.

Col. HAMILTON nominated Major Jackson. On the ballot, Major Jackson had five votes, and Mr. Franklin two votes.

On reading the credentials of the deputies, it was noticed that those from Delaware were prohibited from changing the article in the Confederation establishing an equality of votes among the states.

The appointment of a committee, on the motion of Mr. C. PINCKNEY, consisting of Messrs. Wythe, Hamilton, and C. Pinckney, to prepare standing rules and orders, was the only remaining step taken on this day.

MONDAY, *May 28.*

In Convention—From Massachusetts, Nathaniel Gorham and Caleb Strong; *from Connecticut,* Oliver Ellsworth; *from Delaware,* Gunning Bedford; *from Maryland,* James M'Henry; *from Pennsylvania,* Benjamin Franklin, George Clymer, Thomas Mifflin, and Jared Ingersoll,—took their seats.

Mr. WYTHE, from the committee for preparing rules, made a report, which employed the deliberations of this day.

Mr. KING objected to one of the rules in the report authorizing any member to call for the yeas and nays, and have them entered on the minutes. He urged that, as the acts of the Convention were not to bind the constituents, it was unnecessary to exhibit this evidence of the votes; and improper, as changes of opinion would be frequent in the course of the business, and would fill the minutes with contradictions.

Col. MASON seconded the objection, adding, that such a record of the opinions of members would be an obstacle to a change of them on conviction; and in case of its being hereafter promulged, must furnish handles to the adversaries of the result of the meeting.

The proposed rule was rejected, *nem. con.* The standing rules agreed to were as follows:

RULES

"A House to do business shall consist of the deputies of not less than seven states; and all questions shall be decided by the greater number of these which shall be fully represented. But a less number than seven may adjourn from day to day.

"Immediately after the president shall have taken the chair, and the members their seats, the minutes of the preceding day shall be read by the secretary.

"Every member, rising to speak, shall address the president; and, whilst he shall be speaking, none shall pass between them, or hold discourse with another, or read a book, pamphlet, or paper, printed or manuscript. And of two members rising to speak at the same time, the president shall name him who shall be first heard.

"A member shall not speak oftener than twice, without special leave, upon the same question; and not the second time, before every other who had been silent shall have been heard, if he choose to speak upon the subject.

"A motion, made and seconded, shall be repeated, and, if written, as it shall be when any member shall so require, read aloud, by the secretary, before it shall be debated; and may be withdrawn at any time before the vote upon it shall have been declared.

"Orders of the day shall be read next after the minutes; and either discussed or postponed, before any other business shall be introduced.

"When a debate shall arise upon a question, no motion, other than to amend the question, to commit it, or to postpone the debate, shall be received.

"A question which is complicated shall, at the request of any member, be divided, and put separately upon the propositions of which it is compounded.

"The determination of a question, although fully debated, shall be postponed, if the deputies of any state desire it, until the next day.

"A writing, which contains any matter brought on to be considered, shall be read once throughout, for information; then by paragraphs, to be debated; and again, with the amendments, if any, made on the second reading; and afterwards the question shall be put upon the whole, amended, or approved in its original form, as the case shall be.

"Committees shall be appointed by ballot; and the members who have the greatest number of ballots, although not a majority of the votes present, shall be the committee. When two or more members have an equal number of votes, the member standing first on the list, in the order of taking down the ballots, shall be preferred.

"A member may be called to order by any other member, as well as by the president, and may be allowed to explain his conduct, or expressions supposed to be reprehensible. And all questions of order shall be decided by the president, without appeal or debate.

"Upon a question to adjourn, for the day, which may be made at any time, if it be seconded, the question shall be put without a debate.

"When the House shall adjourn, every member shall stand in his place until the president pass him."

A letter from sundry persons of the state of Rhode Island, addressed to the chairman of the General Convention, was presented to the chair by Mr. GOUVERNEUR MORRIS, and, being read, was ordered to lie on the table for further consideration.

Mr. BUTLER moved, that the House provide against interruption of business by absence of members, and against licentious publications of their proceedings. To which was added, by Mr. SPAIGHT, a motion to provide that, on the one hand, the House might not be precluded by a vote upon any question from revising the subject-matter of it, when they see cause, nor, on the other hand, be led too hastily to rescind a decision which was the result of mature discussion. Where-

upon it was ordered, that these motions be referred for the consideration of the committee appointed to draw up the standing rules, and that the committee make report thereon.

Adjourned till to-morrow, at ten o'clock.

TUESDAY, *May* 29.

In Convention.—John Dickinson and Elbridge Gerry, the former from Delaware, the latter from Massachusetts, took their seats. The following rules were added, on the report of Mr. Wythe, from the committee:—

"That no member be absent from the House, so as to interrupt the representation of the state, without leave.

"That committees do not sit whilst the House shall be, or ought to be, sitting.

"That no copy be taken of any entry on the Journal, during the sitting of the House, without leave of the House.

"That members only be permitted to inspect the Journal.

"That nothing spoken in the House be printed, or otherwise published, or communicated, without leave.

"That a motion to reconsider a matter which has been determined by a majority may be made, with leave unanimously given, on the same day on which the vote passed; but otherwise, not without one day's previous notice; in which last case, if the House agree to the reconsideration, some future day shall be assigned for that purpose."

Mr. C. PINCKNEY moved, that a committee be appointed to superintend the minutes.

Mr. G. MORRIS objected to it. The entry of the proceedings of the Convention belonged to the secretary as their impartial officer. A committee might have an interest and bias in moulding the entry according to their opinions and wishes.

The motion was negatived—five noes, four ayes.

Mr. RANDOLPH then opened the main business:—

He expressed his regret that it should fall to him, rather than those who were of longer standing in life and political experience, to open the great subject of their mission. But as the Convention had originated from Virginia, and his colleagues supposed that some proposition was expected from them, they had imposed this task on him.

He then commented on the difficulty of the crisis, and the necessity of preventing the fulfilment of the prophecies of the American downfall.

He observed, that, in revising the federal system, we ought to inquire, first, into the properties which such a government ought to possess; secondly, the defects of the Confederation; thirdly, the danger of our situation; and, fourthly, the remedy.

1. The character of such a government ought to secure, first, against foreign invasion; secondly, against dissensions between members of the Union, or seditions in particular states; thirdly, to procure to the several states various blessings, of which an isolated situation was incapable; fourthly, it should be able to defend itself against encroachment; and, fifthly, to be paramount to the state constitutions.

2. In speaking of the defects of the Confederation, he professed a high respect for its authors, and considered them as having done all that patriots could do, in the then infancy of the science of constitutions and of confederacies; when the inefficiency of requisitions was unknown—no commercial discord had arisen among any states—no rebellion had appeared, as in Massachusetts—foreign debts had not become urgent—the havoc of paper money had not been foreseen—treaties had not been violated; and perhaps nothing better could be obtained, from the jealousy of the states with regard to their sovereignty.

He then proceeded to enumerate the defects:—

First, that the Confederation produced no security against foreign invasion; Congress not being permitted to prevent a war, nor to support it by their own authority. Of this he cited many examples; most of which tended to show that they could not cause infractions of treaties, or of the law of nations, to be punished; that particular states might, by their conduct, provoke war without control; and that, neither militia nor drafts being fit for defence on such occasions, enlistments only could be successful, and these could not be executed without money.

Secondly, that the federal government could not check the quarrel between states, nor a rebellion in any, not having constitutional power, nor means, to interpose according to the exigency.

Thirdly, that there were many advantages which the United States might acquire, which were not attainable under the Confederation; such as a productive impost, counteraction of the commercial regulations of other nations, pushing of commerce *ad libitum,* &c., &c.

Fourthly, that the federal government could not defend itself against encroachments from the states.

Fifthly, that it was not even paramount to the state constitutions, ratified as it was in many of the states.

3. He next reviewed the danger of our situation; and appealed to the sense of the best friends of the United States—to the prospect of anarchy from the laxity of government every where—and to other considerations.

4. He then proceeded to the remedy; the basis of which, he said, must be the republican principle.

He proposed, as conformable to his ideas, the following resolutions, which he explained one by one.

"1. Resolved, that the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, 'common defence, security of liberty, and general welfare.'

"2. Resolved, therefore, that the rights of suffrage in the national

legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

"3. Resolved, that the national legislature ought to consist of two branches.

"4. Resolved, that the members of the first branch of the national legislature ought to be elected by the people of the several states every ——— for the term of ———; to be of the age of —— years at least; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; to be ineligible to any office established by a particular state, or under the authority of the United States, except those peculiarly belonging to the functions of the first branch, during the term of service, and for the space of ——— after its expiration; to be incapable of re-election for the space of ——— after the expiration of their term of service, and to be subject to recall.

"5. Resolved, that the members of the second branch of the national legislature ought to be elected, by those of the first, out of a proper number of persons nominated by the individual legislatures; to be of the age of —— years at least; to hold their offices for a term sufficient to insure their independency; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; and to be ineligible to any office established by a particular state, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and for the space of ——— after the expiration thereof.

"6. Resolved, that each branch ought to possess the right of originating acts; that the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation, and moreover to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several states contravening, in the opinion of the national legislature, the Articles of Union, or any treaty subsisting under the authority of the Union; and to call forth the force of the Union against any member of the Union failing to fulfil its duty under the articles thereof.

"7. Resolved, that a national executive be instituted; to be chosen by the national legislature for the term of ———; to receive punctually, at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the magistracy existing at the time of increase or diminution; and to be ineligible a second time; and that, besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation.

"8. Resolved, that the executive, and a convenient number of the national judiciary, ought to compose a council of revision, with authority to examine every act of the national legislature, before it shall operate, and every act of a particular legislature before a negative thereon shall be final; and that the dissent of the said council shall amount to a rejection, unless the act of the national legislature be again passed, or

that of a particular legislature be again negatived by ——— of the members of each branch.

"9. Resolved, that a national judiciary be established; to consist of one or more supreme tribunals, and of inferior tribunals; to be chosen by the national legislature; to hold their offices during good behavior, and to receive punctually, at stated times, fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution. That the jurisdiction of the inferior tribunals shall be to hear and determine, in the first instance, and of the supreme tribunal to hear and determine, in the *dernier resort,* all piracies and felonies on the high seas; captures from an enemy; cases in which foreigners, or citizens of other states, applying to such jurisdictions, may be interested; or which respect the collection of the national revenue, impeachments of any national officers, and questions which may involve the national peace and harmony.

"10. Resolved, that provision ought to be made for the admission of states lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

"11. Resolved, that a republican government, and the territory of each state, except in the instance of a voluntary junction of government and territory, ought to be guaranteed by the United States to each state.

"12. Resolved, that provision ought to be made for the continuance of Congress, and their authorities and privileges, until a given day after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

"13. Resolved, that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary; and that the assent of the national legislature ought not to be required thereto.

"14. Resolved, that the legislative, executive, and judiciary powers, within the several states, ought to be bound by oath to support the Articles of Union.

"15. Resolved, that the amendments which shall be offered to the Confederation by the Convention, ought, at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people, to consider and decide thereon."

He concluded with an exhortation, not to suffer the present opportunity of establishing general peace, harmony, happiness, and liberty, in the United States, to pass away unimproved.

It was then resolved, that the House will to-morrow resolve itself into a committee of the whole House, to consider of the state of the American Union; and that the propositions moved by Mr. RANDOLPH be referred to the said committee.

Mr. CHARLES PINCKNEY laid before the House the draft of a federal government which he had prepared, to be agreed upon between the free and independent States of America. [The draft given by Madison was prepared later than 1817. The original is lost and its contents are not known.]

Ordered, that the said draft be referred to the committee of the whole appointed to consider the state of the American Union.

Adjourned.

WEDNESDAY, *May* 30.

Roger Sherman, from Connecticut, took his seat.

The house went into Committee of the Whole on the state of the Union. Mr. Gorham was elected to the chair by ballot.

The propositions of Mr. RANDOLPH which had been referred to the committee being taken up, he moved, on the suggestion of Mr. G. MORRIS, that the first of his propositions, to-wit: *"Resolved, that the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, common defense, security of liberty, and general welfare,"*—should mutually be postponed, in order to consider the three following:—

"1. That a union of the states merely federal will not accomplish the objects proposed by the Articles of Confederation—namely, common defense, security of liberty, and general welfare.

"2. That no treaty or treaties among the whole or part of the states, as individual sovereignties, would be sufficient.

"3. That a national government ought to be established, consisting of a supreme legislative, executive, and judiciary."

The motion for postponing was seconded by Mr. G. MORRIS, and unanimously agreed to.

Some verbal criticisms were raised against the first proposition, and it was agreed, on motion of Mr. BUTLER, seconded by Mr. RANDOLPH, to pass on to the third, which underwent a discussion, less, however, on its general merits than on the force and extent of the particular terms national and supreme.

Mr. CHARLES PINCKNEY wished to know of Mr. Randolph whether he meant to abolish the state governments altogether. Mr. RANDOLPH replied, that he meant by these general propositions merely to introduce the particular ones which explained the outlines of the system he had in view.

Mr. BUTLER said he had not made up his mind on the subject, and was open to the light which discussion might throw on it. After some general observations, he concluded with saying, that he had opposed the grant of powers to Congress heretofore, because the whole

power was vested in one body. The proposed distribution of the powers with different bodies changed the case, and would induce him to go great lengths.

Gen. PINCKNEY expressed a doubt whether the act of Congress recommending the Convention, or the commissions of the deputies to it, would authorize a discussion of a system founded on different principles from the Federal Constitution.

Mr. GERRY seemed to entertain the same doubt.

Mr. GOUVERNEUR MORRIS explained the distinction between a federal and a national supreme government; the former being a mere compact resting on the good faith of the parties, the latter having a complete and compulsive operation. He contended that in all communities there must be one supreme power, and one only.

Mr. MASON observed, not only that the present Confederation was deficient in not providing for coercion and punishment against delinquent states, but argued very cogently, that punishment could not, in the nature of things, be executed on the states collectively, and therefore that such a government was necessary as could directly operate on individuals, and would punish those only whose guilt required it.

Mr. SHERMAN admitted that the Confederation had not given sufficient power to Congress, and that additional powers were necessary; particularly that of raising money, which, he said, would involve many other powers. He admitted, also, that the general and particular jurisdictions ought in no case to be concurrent. He seemed, however, not to be disposed to make too great inroads on the existing system; intimating, as one reason, that it would be wrong to lose every amendment by inserting such as would not be agreed to by the states.

It was moved by Mr. READ, and seconded by Mr. CHARLES COTESWORTH PINCKNEY, to postpone the third proposition last offered by Mr. Randolph, viz., "that a national government ought to be established, consisting of a supreme legislative, executive, and judiciary," in order to take up the following, viz.: "Resolved, that, in order to carry into execution the design of the states in forming this Convention, and to accomplish the objects proposed by the Confederation, a more effective government, consisting of a legislative, executive, and judiciary, ought to be established." The motion to postpone for this purpose was lost.

Massachusetts, Connecticut, Delaware, South Carolina, aye, 4; New York, Pennsylvania, Virginia, North Carolina, no, 4.

On the question, as moved by Mr. BUTLER, on the third proposition, it was resolved, in committee of the whole, "that a national govern-

ment ought to be established, consisting of a supreme legislative, executive, and judiciary."

Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, aye, 6; Connecticut, no, 1; New York, divided. (Col. Hamilton, aye, Mr. Yates, no.)

The following resolution, being the second of those proposed by Mr. RANDOLPH, was taken up, viz.:

"That the rights of suffrage in the national legislature ought to be proportionate to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases."

Mr. MADISON, observing that the words "or to the number of free inhabitants" might occasion debates which would divert the committee from the general question whether the principle of representation should be changed, moved that they might be struck out.

Mr. KING observed that the quotas of contribution, which would alone remain as the measure of representation, would not answer; because, waiving every other view of the matter, the revenue might hereafter be so collected by the general government that the sums respectively drawn from the states would not appear, and would besides be continually varying.

Mr. MADISON admitted the propriety of the observation, and that some better rule ought to be found.

Col. HAMILTON moved to alter the resolution so as to read, "that the rights of suffrage in the national legislature ought to be proportioned to the number of free inhabitants." Mr. SPAIGHT seconded the motion.

It was then moved that the resolution be postponed; which was agreed to.

Mr. RANDOLPH and Mr. MADISON then moved the following resolution: "That the rights of suffrage in the national legislature ought to be proportioned."

It was moved, and seconded, to amend it by adding, "and not according to the present system;" which was agreed to.

It was then moved and seconded to alter the resolution so as to read, "That the rights of suffrage in the national legislature ought not to be according to the present system."

It was then moved and seconded to postpone the resolution moved by Mr. Randolph and Mr. Madison; which being agreed to,—

Mr. MADISON moved, in order to get over the difficulties, the following resolution: "That the equality of suffrage established by the Articles of Confederation ought not to prevail in the national legislature; and that an equitable ratio of representation ought to be substi-

tuted." This was seconded by Mr. GOUVERNEUR MORRIS, and, being generally relished, would have been agreed to, when

Mr. READ moved that the whole clause relating to the point of representation be postponed; reminding the committee that the deputies from Delaware were restrained by their commission from assenting to any change of the rule of suffrage, and in case such a change should be fixed on, it might become their duty to retire from the Convention.

Mr. GOUVERNEUR MORRIS observed that the valuable assistance of those members could not be lost without real concern; and that so early a proof of discord in the Convention as the secession of a state would add much to the regret; that the change proposed was, however, so fundamental an article in a national government that it could not be dispensed with.

Mr. MADISON observed that, whatever reason might have existed for the equality of suffrage when the union was a federal one among sovereign states, it must cease when a national government should be put into the place. In the former case, the acts of Congress depended so much for their efficacy on the co-operation of the states, that these had a weight, both within and without Congress, nearly in proportion to their extent and importance. In the latter case, as the acts of the general government would take effect without the intervention of the state legislatures, a vote from a small state would have the same efficacy and importance as a vote from a large one, and there was the same reason for different numbers of representatives from different states, as from counties of different extents within particular states. He suggested, as an expedient for at once taking the sense of the members on this point, and saving the Delaware deputies from embarrassment, that the question should be taken in committee, and the clause, on report to the House, be postponed without a question there. This, however, did not appear to satisfy Mr. Read.

By several it was observed that no just construction of the act of Delaware could require or justify a secession of her deputies, even if the resolution were to be carried through the House as well as the committee. It was finally agreed, however, that the clause should be postponed; it being understood that, in the event, the proposed change of representation would certainly be agreed to, no objection or difficulty being started from any other quarter than from Delaware.

The motion of Mr. Read to postpone being agreed to, the committee then rose; the chairman reported progress; and the House, having resolved to resume the subject in committee tomorrow, adjournd to ten o'clock.

THURSDAY, *May* 31.

William Pierce, from Georgia, took his seat.

In the committee of the whole on Mr. RANDOLPH'S resolutions —the third resolution, "that the national legislature ought to consist of two branches," was agreed to without debate, or dissent, except that of Pennsylvania—given probably from complaisance to Dr. Franklin, who was understood to be partial to a single house of legislation.

The fourth resolution, first clause, "that the members of the first branch of the national legislature ought to be elected by the people of the several states," being taken up,—

Mr. SHERMAN opposed the election by the people, insisting that it ought to be by the state legislatures. The people, he said, immediately, should have as little to do as may be about the government. They want information, and are constantly liable to be misled.

Mr. GERRY. The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots. In Massachusetts, it had been fully confirmed by experience, that they are daily misled into the most baneful measures and opinions, by the false reports circulated by designing men, and which no one on the spot can refute. One principal evil arises from the want of due provision for those employed in the administration of government. It would seem to be a maxim of democracy to starve the public servants. He mentioned the popular clamor in Massachusetts for the reduction of salaries, and the attack made on that of the governor, though secured by the spirit of the Constitution itself. He had, he said, been too republican heretofore; he was still, however, republican, but had been taught by experience the danger of the leveling spirit.

Mr. MASON argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of the government. It was, so to speak, to be our House of Commons. It ought to know and sympathize with every part of the community, and ought therefore to be taken, not only from different parts of the whole republic, but also from different districts of the larger members of it; which had in several instances, particularly in Virginia, different interests and views arising from difference of produce, of habits, etc., etc. He admitted that we had been too democratic, but was afraid we should incautiously run into the opposite extreme. We ought to attend to the rights of every class of the people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity and policy; considering that,

however affluent their circumstances, or elevated their situations might be, the course of a few years not only might, but certainly would, distribute their posterity throughout the lowest classes of society. Every selfish motive, therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights and happiness of the lowest, than of the highest, order of citizens.

Mr. WILSON contended strenuously for drawing the most numerous branch of the legislature immediately from the people. He was for raising the federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican government this confidence was peculiarly essential. He also thought it wrong to increase the weight of the state legislatures by making them the electors of the national legislature. All interference between the general and local governments should be obviated as much as possible. On examination, it would be found that the opposition of states to federal measures had proceeded much more from the officers of the states than from the people at large.

Mr. MADISON considered the popular election of one branch of the national legislature as essential to every plan of free government. He observed that, in some of the states, one branch of the legislature was composed of men already removed from the people by an intervening body of electors; that, if the first branch of the general legislature should be elected by the state legislatures, the second branch elected by the first, the executive by the second together with the first, and other appointments again made for subordinate purposes by the executive, the people would be lost sight of altogether, and the necessary sympathy between them and their rulers and officers too little felt. He was an advocate for the policy of refining the popular appointments by successive filtrations, but thought it might be pushed too far. He wished the expedient to be resorted to only in the appointment of the second branch of the legislature, and in the executive and judiciary branches of the government. He thought, too, that the great fabric to be raised would be more stable and durable, if it should rest on the solid foundation of the people themselves, than if it should stand merely on the pillars of the legislatures.

Mr. GERRY did not like the election by the people. The maxims taken from the British constitution were often fallacious when applied to our situation, which was extremely different. Experience, he said, had shown that the state legislatures, drawn immediately from the peo-

ple, did not always possess their confidence. He had no objection, however, to an election by the people, if it were so qualified that men of honor and character might not be unwilling to be joined in the appointments. He seemed to think the people might nominate a certain number, out of which the state legislatures should be bound to choose.

Mr. BUTLER thought an election by the people an impracticable mode.

On the question for an election of the first branch of the national legislature by the people,—

Massachusetts, New York, Pennsylvania, Virginia, North Carolina, Georgia, aye, 6; New Jersey, South Carolina, no, 2; Connecticut, Delaware, divided.

The remaining clauses of the fourth resolution, relating to the qualifications of members of the national legislature, being postponed, *nem. con.*, as entering too much into detail for general propositions,—

The committee proceeded to the fifth resolution, that the second [or senatorial] branch of the national legislature ought to be chosen by the first branch, out of persons nominated by the state legislatures.

Mr. SPAIGHT contended that the second branch ought to be chosen by the state legislatures, and moved an amendment to that effect.

Mr. BUTLER apprehended that the taking so many powers out of the hands of the states as was proposed tended to destroy all that balance and security of interests among the states which it was necessary to preserve, and called on Mr. Randolph, the mover of the propositions, to explain the extent of his ideas, and particularly the number of members he meant to assign to this second branch.

Mr. RANDOLPH observed that he had, at the time of offering his propositions, stated his ideas, as far as the nature of general propositions required; that details made no part of the plan, and could not perhaps with propriety have been introduced. If he was to give an opinion as to the number of the second branch, he should say that it ought to be much smaller than that of the first; so small as to be exempt from the passionate proceedings to which numerous assemblies are liable. He observed that the general object was to provide a cure for the evils under which the United States labored; that, in tracing these evils to their origin, every man had found it in the turbulence and follies of democracy; that some check therefore was to be sought for against this tendency of our governments; and that a good Senate seemed most likely to answer the purpose.

Mr. KING reminded the committee that the choice of the second branch, as proposed (by Mr. Spaight), viz., by the state legislatures, would be impracticable unless it was to be very numerous, or the idea of proportion among the states was to be disregarded. According to this idea, there must be eighty or a hundred members to entitle Delaware to the choice of one of them.

Mr. SPAIGHT withdrew his motion.

Mr. WILSON opposed both a nomination by the state legislatures, and an election by the first branch of the national legislature, because the second branch of the latter ought to be independent of both. He thought both branches of the national legislature ought to be chosen by the people, but was not prepared with a specific proposition. He suggested the mode of choosing the Senate of New York, to-wit, of uniting several election districts for one branch, in choosing members for the other branch, as a good model.

Mr. MADISON observed that such a mode would destroy the influence of the smaller states associated with larger ones in the same district; as the latter would choose from within themselves, although better men might be found in the former. The election of senators in Virginia, where large and small counties were often formed into one district for the purpose, had illustrated this consequence. Local partiality would often prefer a resident within the county or state to a candidate of superior merit residing out of it. Less merit also in a resident would be more known throughout his own state.

Mr. SHERMAN favored an election of one member by each of the state legislatures.

Mr. PINCKNEY moved to strike out the "nomination by the state legislatures." On this question—

Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, no, 9; Delaware, divided.

On the whole question for electing by the first branch out of nominations by the state legislatures—Massachusetts, Virginia, South Carolina, aye, 3; Connecticut, New York, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia, no, 7.

So the clause was disagreed to, and a chasm left in this part of the plan.

THURSDAY, *June 7.*

In Committee of the Whole.—Mr. PINCKNEY, according to notice, moved to reconsider the clause respecting the negative on state laws, which was agreed to, and tomorrow fixed for the purpose.

The clause providing for the appointment of the second branch of the national legislature, having lain blank since the last vote on the mode of electing it, to-wit, by the first branch, Mr. DICKINSON now moved "that the members of the second branch ought to be chosen by the individual legislatures."

Mr. SHERMAN seconded the motion; observing that the particular states would thus become interested in supporting the national government, and that a due harmony between the two governments would be maintained. He admitted that the two ought to have separate and distinct jurisdictions, but that they ought to have a mutual interest in supporting each other.

Mr. PINCKNEY. If the small states should be allowed one senator only, the number will be too great; there will be eighty at least.

Mr. DICKINSON had two reasons for his motion—first, because the sense of the states would be better collected through their governments than immediately from the people at large; secondly, because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the state legislatures than in any other mode. The greatness of the number was no objection with him. He hoped there would be eighty, and twice eighty, of them. If their number should be small, the popular branch could not be balanced by them. The legislature of a numerous people ought to be a numerous body.

Mr. WILLIAMSON preferred a small number of senators, but wished that each state should have at least one. He suggested twenty-five as a convenient number. The different modes of representation in the different branches will serve as a mutual check.

Mr. BUTLER was anxious to know the ratio of representation before he gave any opinion.

Mr. WILSON. If we are to establish a national government that government ought to flow from the people at large. If one branch of it should be chosen by the legislatures, and the other by the people, the two branches will rest on different foundations, and dissensions will naturally arise between them. He wished the Senate to be elected by the people, as well as the other branch; the people might be divided into proper districts for the purpose; and he moved to postpone the motion of Mr. Dickinson, in order to take up one of that import.

Mr. MORRIS seconded him.

Mr. READ proposed "that the Senate should be appointed, by the executive magistrate, out of a proper number of persons to be nominated by the individual legislatures." He said he thought it his duty to speak his mind frankly. Gentlemen, he hoped, would not be alarmed at the idea. Nothing short of this approach towards a proper model of government would answer the purpose, and he thought it best to come directly to the point at once. His proposition was not seconded nor supported.

Mr. MADISON. If the motion (of Mr. Dickinson) should be agreed to, we must either depart from the doctrine of proportional representation, or admit into the Senate a very large number of members. The first is inadmissible, being evidently unjust. The second is inexpedient. The use of the Senate is to consist in its proceeding with more coolness, with more system, and with more wisdom, than the popular branch. Enlarge their number, and you communicate to them the vices which they are meant to correct. He differed from Mr. Dickinson, who thought that the additional number would give additional weight to the body. On the contrary, it appeared to him that their weight would be in an inverse ratio to their numbers. The example of the Roman tribunes was applicable. They lost their influence and power in proportion as their number was augmented. The reason seemed to be obvious. They were appointed to take care of the popular interests and pretensions at Rome; because the people, by reason of their numbers, could not act in concert, and were liable to fall into factions among themselves, and to become a prey to their aristocratic adversaries. The more the representatives of the people, therefore, were multiplied, the more they partook of the infirmities of their constituents, the more liable they became to be divided among themselves, either from their own indiscretions or the artifices of the opposite faction, and of course the less capable of fulfilling their trust. When the weight of a set of men depends merely on their personal characters, the greater the number, the greater the weight. When it depends on the degree of political authority lodged in them, the smaller the number, the greater the weight. These considerations might perhaps be combined in the intended Senate; but the latter was the material one.

Mr. GERRY. Four modes of appointing the Senate have been mentioned. First, by the first branch of the national legislature. This would create a dependence contrary to the end proposed. Secondly, by the national executive. This is a stride towards monarchy that few will think of. Thirdly, by the people. The people have two great interests,

the landed interest, and the commercial, including the stockholders. To draw both branches from the people will leave no security to the latter interest; the people being chiefly composed of the landed interest, and erroneously supposing the other interests are adverse to it. Fourthly, by the individual legislatures. The elections being carried through this refinement, will be most likely to provide some check in favor of the commercial interest against the landed; without which, oppression will take place; and no free government can last long where that is the case. He was therefore in favor of this last.

Mr. DICKINSON. The preservation of the states in a certain degree of agency is indispensable. It will produce that collision between the different authorities which should be wished for in order to check each other. To attempt to abolish the states altogether would degrade the councils of our country, would be impracticable, would be ruinous. He compared the proposed national system to the solar system, in which the states were the planets, and ought to be left to move freely in their proper orbits. The gentleman from Pennsylvania (Mr. Wilson) wished, he said, to extinguish these planets. If the state governments were excluded from all agency in the national one, and all power drawn from the people at large, the consequence would be, that the national government would move in the same direction as the state governments now do, and would run into all the same mischiefs. The reform would only unite the thirteen small streams into one great current, pursuing the same course without any opposition whatever. He adhered to the opinion that the Senate ought to be composed of a large number, and that their influence, from family weight and other causes, would be increased thereby. He did not admit that the tribunes lost their weight in proportion as their number was augmented, and gave an historical sketch of this institution. If the reasoning (of Mr. Madison) was good, it would prove that the number of the Senate ought to be reduced below ten, the highest number of the tribunitial corps.

Mr. WILSON. The subject, it must be owned, is surrounded with doubts and difficulties. But we must surmount them. The British government cannot be our model. We have no materials for a similar one. Our manners, our laws, the abolition of entails and of primogeniture, the whole genius of the people, are opposed to it. He did not see the danger of the states being devoured by the national government. On the contrary, he wished to keep them from devouring the national government. He was not, however, for extinguishing these planets,

as was supposed by Mr. Dickinson; neither did he, on the other hand, believe that they would warm or enlighten the sun. Within their proper orbits they must still be suffered to act, for subordinate purposes, for which their existence is made essential by the great extent of our country. He could not comprehend in what manner the landed interest would be rendered less predominant in the Senate by an election through the medium of the legislatures than by the people themselves. If the legislatures, as was now complained, sacrificed the commercial to the landed interest, what reason was there to expect such a choice from them as would defeat their own views? He was for an election by the people, in large districts, which would be most likely to obtain men of intelligence and uprightness; subdividing the districts only for the accommodation of voters.

Mr. MADISON could as little comprehend in what manner family weight, as desired by Mr. Dickinson, would be more certainly conveyed into the Senate through elections by the state legislatures than in some other modes. The true question was, in what mode the best choice would be made. If an election by the people, or through any other channel than the state legislatures, promised as uncorrupt and impartial a preference of merit, there could surely be no necessity for an appointment by those legislatures. Nor was it apparent that a more useful check would be derived through that channel than from the people through some other. The great evils complained of were, that the state legislatures ran into schemes of paper money, etc., whenever solicited by the people, and sometimes without even the sanction of the people. Their influence, then, instead of checking a like propensity in the national legislature, may be expected to promote it. Nothing can be more contradictory than to say that the national legislature, without a proper check, will follow the example of the state legislatures, and, in the same breath, that the state legislatures are the only proper check.

Mr. SHERMAN opposed elections by the people, in districts, as not likely to produce such fit men as elections by the state legislatures.

Mr. GERRY insisted that the commercial and moneyed interest would be more secure in the hands of the state legislatures than of the people at large. The former have more sense of character, and will be restrained by that from injustice. The people are for paper money, when the legislatures are against it. In Massachusetts the county conventions had declared a wish for a depreciating paper that would sink itself. Besides, in some states there are two branches in the legislature,

one of which is somewhat aristocratic. There would, therefore, be so far a better chance of refinement in the choice. There seemed, he thought, to be three powerful objections against elections by districts. First, it is impracticable; the people cannot be brought to one place for the purpose; and whether brought to the same place or not, numberless frauds would be unavoidable. Secondly, small states, forming part of the same district with a large one, or a large part of a large one, would have no chance of gaining an appointment for its citizens of merit. Thirdly, a new source of discord would be opened between different parts of the same district.

Mr. PINCKNEY thought the second branch ought to be permanent and independent; and that the members of it would be rendered more so by receiving their appointments from the state legislatures. This mode would avoid the rivalships and discontents incident to the election by districts. He was for dividing the states in three classes, according to their respective sizes, and for allowing to the first class three members; to the second, two; and to the third, one.

On the question for postponing Mr. Dickinson's motion, referring the appointment of the Senate to the state legislatures, in order to consider Mr. Wilson's, for referring it to the people,—

Pennsylvania, aye, 1; Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, no, 10.

Col. MASON. Whatever power may be necessary for the national government, a certain portion must necessarily be left with the states. It is impossible for one power to pervade the extreme parts of the United States, so as to carry equal justice to them. The state legislatures, also, ought to have some means of defending themselves against encroachments of the national government. In every other department, we have studiously endeavored to provide for its self-defense. Shall we leave the states alone unprovided with the means for this purpose? And what better means can we provide, than the giving them some share in, or rather to make them a constituent part of, the national establishment? There is danger on both sides, no doubt; but we have only seen the evils arising on the side of the state governments. Those on the other side remain to be displayed. The example of Congress does not apply. Congress had no power to carry their acts into execution, as the national government will have.

On Mr. DICKINSON'S motion for an appointment of the Senate by the state legislatures,—

Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye, 10.

Mr. GERRY gave notice that he would tomorrow move for a reconsideration of the mode of appointing the national executive, in order to substitute an appointment by the state executives.

The committee rose, and the House adjourned.

MONDAY, *June* 11.

Mr. Abraham Baldwin, from Georgia, took his seat.

In Committee of the Whole.—The clause concerning the rule of suffrage in the national legislature, postponed on Saturday, was resumed.

Mr. SHERMAN proposed that the proportion of suffrage in the first branch should be according to the respective numbers of free inhabitants; and that in the second branch, or Senate, each state should have one vote and no more. He said, as the states would remain possessed of certain individual rights, each state ought to be able to protect itself; otherwise a few large states will rule the rest. The House of Lords in England, he observed, had certain particular rights under the constitution, and hence they have an equal vote with the House of Commons, that they may be able to defend their rights.

Mr. RUTLEDGE proposed that the proportion of suffrage in the first branch should be according to the quotas of contribution. The justice of this rule, he said, could not be contested. Mr. BUTLER urged the same idea; adding, that money was power; and that the states ought to have weight in the government in proportion to their wealth.

Mr. KING and Mr. WILSON, in order to bring the question to a point, moved, "that the right of suffrage in the first branch of the national legislature ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation." The clause, so far as it related to suffrage in the first branch, was postponed, in order to consider this motion. [In the printed Journal, Mr. RUTLEDGE is named as the seconder of the motion.]

Mr. DICKINSON contended for the actual contributions of the states, as the rule of their representation and suffrage in the first branch. By thus connecting the interests of the states with their duty, the latter would be sure to be performed.

Mr. KING remarked that it was uncertain what mode might be used in levying a national revenue; but that it was probable, imposts would be one source of it. If the actual contributions were to be the

rule, the non-importing states, as Connecticut and New Jersey, would be in a bad situation, indeed. It might so happen that they would have no representation. This situation of particular states had been always one powerful argument in favor of the five per cent impost.

The question being about to be put, Dr. FRANKLIN said, he had thrown his ideas of the matter on a paper; which Mr. Wilson read to the committee, in the words following:—

"Mr. CHAIRMAN: It has given me great pleasure to observe, that till this point—the proportion of representation—came before us, our debates were carried on with great coolness and temper. If anything of a contrary kind has on this occasion appeared, I hope it will not be repeated; for we are sent here to consult, not to contend, with each other; and declarations of a fixed opinion, and of determined resolution never to change it, neither enlighten nor convince us. Positiveness and warmth on one side naturally beget their like on the other, and tend to create and augment discord and division, in a great concern wherein harmony and union are extremely necessary to give weight to our councils, and render them effectual in promoting and securing the common good.

"I must own, that I was originally of opinion it would be better if every member of Congress, or our national council, were to consider himself rather as a representative of the whole than as an agent for the interests of a particular state; in which case, the proportion of members for each state would be of less consequence, and it would not be very material whether they voted by states or individually. But as I find this is not to be expected, I now think the number of representatives should bear some proportion to the number of the represented, and that the decisions should be by the majority of members, not by the majority of the states. This is objected to from an apprehension that the greater states would then swallow up the smaller. I do not at present clearly see what advantage the greater states could propose to themselves by swallowing up the smaller, and therefore do not apprehend they would attempt it. I recollect that, in the beginning of this century, when the union was proposed of the two kingdoms, England and Scotland, the Scotch patriots were full of fears, that, unless they had an equal number of representatives in Parliament, they should be ruined by the superiority of the English. They finally agreed, however, that the different proportions of importance in the union of the two nations should be attended to, whereby they were to have only forty members

in the House of Commons, and only sixteen in the House of Lords—a very great inferiority of numbers. And yet to this day I do not recollect that anything has been done in the Parliament of Great Britain to the prejudice of Scotland; and whoever looks over the lists of public officers, civil and military, of that nation, will find, I believe, that the North Britons enjoy at least their full proportion of emolument.

"But, sir, in the present mode of voting by states, it is equally in the power of the lesser states to swallow up the greater; and this is mathematically demonstrable. Suppose, for example, that seven smaller states had each three members in the House, and the six larger to have, one with another, six members; and that, upon a question, two members of each smaller state should be in the affirmative, and one in the negative, they would make—affirmatives, 14; negatives, 7; and that all the larger states should be unanimously in the negative, they would make, negatives, 36; in all, affirmatives, 14; negatives, 43.

"It is, then, apparent, that the fourteen carry the question against the forty-three, and the minority overpowers the majority, contrary to the common practice of assemblies in all countries and ages.

"The greater states, sir, are naturally as unwilling to have their property left in the disposition of the smaller, as the smaller are to have theirs in the disposition of the greater. An honorable gentleman has, to avoid this difficulty, hinted a proposition of equalizing the states. It appears to me an equitable one, and I should, for my own part, not be against such a measure, if it might be found practicable. Formerly, indeed, when almost every province had a different constitution—some with greater, others with fewer, privileges—it was of importance to the borderers, when their boundaries were contested, whether, by running the division lines, they were placed on one side or the other. At present, when such differences are done away, it is less material. The interest of a state is made up of the interests of its individual members. If they are not injured, the state is not injured. Small states are more easily well and happily governed than large ones. If, therefore, in such an equal division, it should be found necessary to diminish Pennsylvania, I should not be averse to the giving a part of it to New Jersey and another to Delaware. But as there would probably be considerable difficulties in adjusting such a division, and, however equally made at first, it would be continually varying by the augmentation of inhabitants in some states, and their fixed proportion in others, and thence frequently occasion new divisions, I beg leave to propose, for the consid-

eration of the committee, another mode, which appears to me to be as equitable, more easily carried into practice, and more permanent in its nature.

"Let the weakest state say what proportion of money or force it is able and willing to furnish for the general purposes of the Union;

"Let all the others oblige themselves to furnish each an equal proportion;

"The whole of these joint supplies to be absolutely in the disposition of Congress;

"The Congress, in this case, to be composed of an equal number of delegates from each state;

"And their decisions to be by the majority of individual members voting;

"If these joint and equal supplies should, on particular occasions, not be sufficient, let Congress make requisitions on the richer and more powerful states for further aids, to be voluntarily afforded, leaving to each state the right of considering the necessity and utility of the aid desired, and of giving more or less, as it should be found proper.

"This mode is not new. It was formerly practiced with success by the British government with respect to Ireland and the colonies. We sometimes gave even more than they expected, or thought just to accept; and, in the last war, carried on while we were united, they gave us back in five years a million sterling. We should probably have continued such voluntary contributions, whenever the occasions appeared to require them, for the common good of the empire. It was not till they chose to force us, and to deprive us of the merit and pleasure of voluntary contributions, that we refused and resisted. These contributions, however, were to be disposed of at the pleasure of a government in which we had no representative. I am, therefore, persuaded, that they will not be refused to one in which the representation shall be equal.

"My learned colleague (Mr. Wilson) has already mentioned, that the present method of voting by states was submitted to originally by Congress under a conviction of its impropriety, inequality and injustice. This appears in the words of their resolution. It is of the sixth of September, 1774. The words are,—

" 'Resolved, That, in determining questions in this Congress, each colony or province shall have one vote; the Congress not being possessed of, or at present able to procure, materials for ascertaining the importance of each colony.' "

On the question for agreeing to Mr. King's and Mr. Wilson's motion, it passed in the affirmative.

Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye, 7; New York, New Jersey, Delaware, no, 3; Maryland, divided.

WEDNESDAY, *June* 13.

Mr. GERRY moved to restrain the senatorial branch from originating money bills. The other branch was more immediately the representatives of the people, and it was a maxim, that the people ought to hold the purse-strings. If the Senate should be allowed to originate such bills, they would repeat the experiment, till chance should furnish a set of representatives in the other branch who will fall into their snares.

Mr. BUTLER saw no reason for such a discrimination. We were always following the British constitution, when the reason of it did not apply. There was no analogy between the House of Lords and the body proposed to be established. If the Senate should be degraded by any such discriminations, the best men would be apt to decline serving in it, in favor of the other branch. And it will lead the latter into the practice of tacking other clauses to money bills.

Mr. MADISON observed that the commentators on the British constitution had not yet agreed on the reason of the restriction on the House of Lords, in money bills. Certain it was, there could be no similar reason in the case before us. The Senate would be the representatives of the people as well as the first branch. If they should have any dangerous influence over it, they would easily prevail on some member of the latter to originate the bill they wished to be passed. As the Senate would be generally a more capable set of men, it would be wrong to disable them from any preparation of the business, especially of that which was most important, and, in our republics, worse prepared than any other. The gentleman, in pursuance of his principle, ought to carry the restraint to the amendment, as well as the originating of money bills; since an addition of a given sum would be equivalent to a distinct proposition of it.

Mr. KING differed from Mr. Gerry, and concurred in the objections to the proposition.

Mr. READ favored the proposition, but would not extend the restraint to the case of amendments.

Mr. PINCKNEY thinks the question premature. If the Senate should be formed on the same proportional representation, as it stands at

present, they should have equal power; otherwise, if a different principle should be introduced.

Mr. SHERMAN. As both branches must concur, there can be no danger, whichever way the Senate may be formed. We establish two branches in order to get more wisdom, which is particularly needed in the finance business. The Senate bear their share of the taxes, and are also the representatives of the people. "What a man does by another, he does by himself," is a maxim. In Connecticut, both branches can originate, in all cases, and it has been found safe and convenient. Whatever might have been the reason of the rule as to the House of Lords, it is clear that no good arises from it now even there.

Gen. PINCKNEY. This distinction prevails in South Carolina, and has been a source of pernicious disputes between the two branches. The constitution is now evaded by informal schedules of amendments, handed from the Senate to the other House.

Mr. WILLIAMSON wishes for a question, chiefly to prevent rediscussion. The restriction will have one advantage: it will oblige some member in the lower branch to move, and people can then mark him.

On the question for excepting money bills, as proposed by Mr. Gerry,—

New York, Delaware, Virginia, aye, 3; Massachusetts, Connecticut, New Jersey, Maryland, North Carolina, South Carolina, Georgia, no, 7.

The committee rose, and Mr. GORHAM made report, which was postponed till tomorrow, to give an opportunity for other plans to be proposed: the report was in the words following:—

1. Resolved, That it is the opinion of this committee, that a national government ought to be established, consisting of a supreme legislative, executive, and judiciary.

2. Resolved, That the national legislature ought to consist of two branches.

3. Resolved, That the members of the first branch of the national legislature ought to be elected by the people of the several states for the term of three years; to receive fixed stipends by which they may be compensated for the devotion of their time to the public service, to be paid out of the national treasury; to be ineligible to any office established by a particular state, or under the authority of the United States (except those peculiarly belonging to the functions of the first branch), during the term of service, and, under the national government, for the space of one year after its expiration.

4. Resolved, That the members of the second branch of the national legislature ought to be chosen by the individual legislatures; to be

of the age of thirty years at least; to hold their offices for a term sufficient to insure their independence, namely, seven years; to receive fixed stipends by which they may be compensated for the devotion of their time to the public service, to be paid out of the national treasury; to be ineligible to any office established by a particular state, or under the authority of the United States (except those peculiarly belonging to the functions of the second branch), during the term of service, and, under the national government, for the space of one year after its expiration.

5. Resolved, That each branch ought to possess the right of originating acts.

6. Resolved, That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation; and moreover, to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several states contravening, in the opinion of the national legislature, the Articles of Union or any treaties subsisting under the authority of the Union.

7. Resolved, That the rights of suffrage in the first branch of the national legislature ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation; namely, in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three-fifths of all other persons, not comprehended in the foregoing description, except Indians not paying taxes in each state.

8. Resolved, That the right of suffrage in the second branch of the national legislature ought to be according to the rule established for the first.

9. Resolved, That a national executive be instituted, to consist of a single person; to be chosen by the national legislature, for the term of seven years; with power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for, to be ineligible a second time, and to be removable on impeachment and conviction of malpractices or neglect of duty; to receive a fixed stipend by which he may be compensated for the devotion of his time to the public service, to be paid out of the national treasury.

10. Resolved, That the national executive shall have a right to negative any legislative act which shall not be afterwards passed by two-thirds of each branch of the national legislature.

11. Resolved, That a national judiciary be established, to consist of one supreme tribunal, the judges of which shall be appointed by the second branch of the national legislature, to hold their offices during good behavior, and to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution.

12. Resolved, That the national legislature be empowered to appoint inferior tribunals.

13. Resolved, That the jurisdiction of the national judiciary shall extend to all cases which respect the collection of the national revenue, impeachments of any national officers, and questions which involve the national peace and harmony.

14. Resolved, That provision ought to be made for the admission of states lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

15. Resolved, That provision ought to be made for the continuance of Congress, and their authorities and privileges, until a given day after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

16. Resolved, That a republican constitution, and its existing laws, ought to be guaranteed to each state by the United States.

17. Resolved, That provision ought to be made for the amendment of the Articles of Union, whensoever it shall seem necessary.

18. Resolved, That the legislative, executive, and judiciary powers, within the several states, ought to be bound by oath to support the Articles of Union.

19. Resolved, That the amendments which shall be offered to the Confederation by the Convention, ought, at a proper time or times after the approbation of Congress, to be submitted to an assembly or assemblies recommended by the several legislatures, to be expressly chosen by the people to consider and decide thereon.

THURSDAY, *June* 14.

Mr. PATTERSON observed to the Convention that it was the wish of several deputations, particularly that of New Jersey, that further time might be allowed them to contemplate the plan reported from the Committee of the Whole, and to digest one purely federal, and contra-distinguished from the reported plan. He said, they hoped to have such a one ready by tomorrow to be laid before the Convention: and the Convention adjourned, that leisure might be given for the purpose.

FRIDAY, *June* 15.

In Convention.—Mr. PATTERSON laid before the Convention the plan which, he said, several of the deputations wished to be substituted in place of that proposed by Mr. Randolph. After some little discussion of the most proper mode of giving it a fair deliberation, it was agreed that it should be referred to a Committee of the Whole; and that, in order to place the two plans in due comparison, the other should be recommitted. At the earnest request of Mr. Lansing, and some other gentleman, it was also agreed that the Convention should not go into Committee of the Whole on the subject till tomorrow; by which delay the friends of the plan proposed by Mr. Patterson would

be better prepared to explain and support it, and all would have an opportunity of taking copies.

The propositions from New Jersey, moved by Mr. Patterson, were in the words following:

1. Resolved, That the Articles of Confederation ought to be so revised, corrected and enlarged, as to render the federal Constitution adequate to the exigencies of government, and the preservation of the Union.

2. Resolved, That, in addition to the powers vested in the United States in Congress by the present existing Articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty or duties on all goods or merchandises of foreign growth or manufacture, imported into any part of the United States; by stamps on paper, vellum, or parchment; and by a postage on all letters or packages passing through the general postoffice:—to be applied to such federal purposes as they shall deem proper and expedient: to make rules and regulations for the collection thereof; and the same, from time to time, to alter and amend in such manner as they shall think proper: to pass acts for the regulation of trade and commerce, as well with foreign nations as with each other;—provided that all punishments, fines, forfeitures, and penalties, to be incurred for contravening such acts, rules, and regulations, shall be adjudged by the common-law judiciaries of the state in which any offense contrary to the true intent and meaning of such acts, rules, and regulations, shall have been committed or perpetrated, with liberty of commencing in the first instance all suits and prosecutions for that purpose in the superior common-law judiciary in such state; subject, nevertheless, for the correction of all errors, both in law and fact, in rendering judgment, to an appeal to the judiciary of the United States.

3. Resolved, That whenever requisitions shall be necessary, instead of the rule for making requisitions mentioned in the Articles of Confederation, the United States in Congress be authorized to make such requisitions in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that, if such requisitions be not complied with in the time specified therein, to direct the collection thereof in the non-complying states, and for that purpose to devise and pass acts directing and authorizing the same:—provided, that none of the powers hereby vested in the United States in Congress shall be exercised without the consent of at least ——— states; and in that proportion, if the number of confederated states should hereafter be increased or diminished.

4. Resolved, That the United States in Congress be authorized to elect a federal executive, to consist of ——— persons; to continue in office for a term of ——— years; to receive punctually, at stated times, a fixed compensation for their services, in which no increase nor diminution shall be made so as to affect the persons composing the executive at the time of such increase or diminution; to be paid out of

the federal treasury; to be incapable of holding any other office or appointment during their time of service, and for ———— years thereafter; to be ineligible a second time, and removable by Congress, on application by a majority of the executives of the several states: that the executives, besides their general authority to execute the federal acts, ought to appoint all federal officers not otherwise provided for, and to direct all military operations;—provided, that none of the persons composing the federal executive shall, on any occasion, take command of any troops, so as personally to conduct any military enterprise, as general, or in any other capacity.

5. Resolved, That a federal judiciary be established, to consist of a supreme tribunal, the judges of which to be appointed by the executive, and to hold their offices during good behavior; to receive punctually, at stated times, a fixed compensation for their services, in which no increase nor diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution. That the judiciary so established shall have authority to hear and determine, in the first instance, on all impeachments of federal officers, and, by way of appeal, in the *dernier resort,* in all cases touching the rights of ambassadors; in all cases of captures from an enemy; in all cases of piracies and felonies on the high seas; in all cases in which foreigners may be interested; in the construction of any treaty or treaties, or which may arise on any of the acts for the regulation of trade, or the collection of the federal revenue: that none of the judiciary shall, during the time they remain in office, be capable of receiving or holding any other office or appointment during their term of service, or for ———— thereafter.

6. Resolved, That all acts of the United States in Congress, made by virtue and in pursuance of the powers hereby, and by the Articles of Confederation, vested in them, and all treaties made and ratified under the authority of the United States, shall be the supreme law of the respective states, so far forth as those acts or treaties shall relate to the said states or their citizens; and that the judiciary of the several states shall be bound thereby in their decisions, anything in the respective laws of the individual states to the contrary notwithstanding; and that if any state, or any body of men in any state, shall oppose or prevent the carrying into execution such acts or treaties, the federal executive shall be authorized to call forth the power of the confederated states, or so much thereof as may be necessary, to enforce and compel an obedience to such acts, or an observance of such treaties.

7. Resolved, That provision be made for the admission of new states into the Union.

8. Resolved, That the rule for naturalization ought to be the same in every state.

9. Resolved, That a citizen of one state, committing an offense in another state of the Union, shall be deemed guilty of the same offense as if it had been committed by a citizen of the state in which the offense was committed.

Adjourned.

SATURDAY, *June* 16.

In Committee of the Whole, on the resolutions proposed by Mr. Patterson and Mr. Randolph, Mr. LANSING called for the reading of the first resolution of each plan, which he considered as involving principles directly in contrast. That of Mr. Patterson, says he, sustains the sovereignty of the respective states, that of Mr. Randolph destroys it. The latter requires a negative on all the laws of the particular states, the former only certain general power for the general good. The plan of Mr. Randolph, in short, absorbs all power, except what may be exercised in the little local matters of the states, which are not objects worthy of the supreme cognizance. He grounded his preference of Mr. Patterson's plan, chiefly, on two objections to that of Mr. Randolph —first, want of power in the Convention to discuss and propose it; secondly, the improbability of its being adopted.

1. He was decidedly of opinion that the power of the Convention was restrained to amendments of a federal nature, and having for their basis the Confederacy in being. The acts of Congress, the tenor of the acts of the states, the commissions produced by the several deputations, all proved this. And this limitation of the power to an amendment of the Confederacy marked the opinion of the states, that it was unnecessary and improper to go farther. He was sure that this was the case with his state. New York would never have concurred in sending deputies to the Convention, if she had supposed the deliberations were to turn on a consolidation of the states, and a national government.

2. Was it probable that the states would adopt and ratify a scheme which they had never authorized us to propose, and which so far exceeded what they regarded as sufficient? We see by their several acts, particularly in relation to the plan of revenue proposed by Congress in 1783, not authorized by the Articles of Confederation, what were the ideas they then entertained. Can so great a change be supposed to have already taken place? To rely on any change which is hereafter to take place in the sentiments of the people, would be trusting to too great an uncertainty. We know only what their present sentiments are; and it is in vain to propose what will not accord with these. The states will never feel a sufficient confidence in a general government, to give it a negative on their laws. The scheme is itself totally novel. There is no parallel to it to be found. The authority of Congress is familiar to the people, and an augmentation of the powers of Congress will be readily approved by them.

Mr. PATTERSON said, as he had on a former occasion given his sentiments on the plan proposed by Mr. Randolph, he would now, avoiding repetition as much as possible, give his reasons in favor of that proposed by himself. He preferred it because it accorded,—first, with the powers of the convention; secondly, with the sentiments of the people. If the Confederacy was radically wrong, let us return to our states, and obtain larger powers, not assume them ourselves. I came here not to speak my own sentiments, but the sentiments of those who sent me. Our object is not such a government as may be best in itself, but such a one as our constituents have authorized us to prepare, and as they will approve. If we argue the matter on the supposition that no confederacy at present exists, it cannot be denied that all the states stand on the footing of equal sovereignty. All, therefore, must concur before any can be bound. If a proportional representation be right, why do we not vote so here? If we argue on the fact that a federal compact actually exists, and consult the articles of it, we still find an equal sovereignty to be the basis of it. [He reads the fifth Article of the Confederation, giving each state a vote; and the thirteenth, declaring that no alteration shall be made without unanimous consent.] This is the nature of all treaties. What is unanimously done, must be unanimously undone. It was observed (by Mr. Wilson) that the larger states gave up the point, not because it was right, but because the circumstances of the moment urged the concession. Be it so. Are they for that reason at liberty to take it back? Can the donor resume his gift without the consent of the donee? This doctrine may be convenient, but it is a doctrine that will sacrifice the lesser states. The larger states acceded readily to the Confederacy. It was the small ones that came in reluctantly and slowly. New Jersey and Maryland were the two last; the former objecting to the want of power in Congress over trade; both of them to the want of power to appropriate vacant territory to the benefit of the whole. If the sovereignty of the states is to be maintained, the representatives must be drawn immediately from the states, not from the people; and we have no power to vary the idea of equal sovereignty. The only expedient that will cure the difficulty is that of throwing the states into hotchpot. To say that this is impracticable, will not make it so. Let it be tried, and we shall see whether the citizens of Massachusetts, Pennsylvania, and Virginia, accede to it. It will be objected, that coercion will be impracticable. But will it be more so in one plan than the other? Its efficacy will depend on

the *quantum* of power collected, not on its being drawn from the states, or from the individuals; and, according to his plan, it may be exerted on individuals as well as according to that of Mr. Randolph. A distinct executive and judiciary also were equally provided by his plan. It is urged, that two branches in the legislature are necessary. Why? For the purpose of a check. But the reason for the precaution is not applicable to this case. Within a particular state, where party heats prevail, such a check may be necessary. In such a body as Congress, it is less necessary; and, besides, the delegations of the different states are checks on each other. Do the people at large complain of Congress? No. What they wish is, that Congress may have more power. If the power now proposed be not enough, the people hereafter will make additions to it. With proper powers Congress will act with more energy and wisdom than the proposed national legislature; being fewer in number, and more secreted and refined by the mode of election. The plan of Mr. Randolph will also be enormously expensive. Allowing Georgia and Delaware two representatives each in the popular branch, the aggregate number of that branch will be one hundred and eighty. Add to it half as many for the other branch, and you have two hundred and seventy members, coming once, at least, a year, from the most distant as well as the most central parts of the republic. In the present deranged state of our finances, can so expensive a system be seriously thought of? By enlarging the powers of Congress, the greatest part of this expense will be saved, and all purposes will be answered. At least, a trial ought to be made.

Mr. WILSON entered into a contrast of the principal points of the two plans, so far, he said, as there had been time to examine the one last proposed. These points were,—1. In the Virginia plan there are two, and in some degree three, branches in the legislature; in the plan from New Jersey, there is to be a single legislature only. 2. Representation of the people at large is the basis of one; the state legislatures the pillars of the other. 3. Proportional representation prevails in one, equality of suffrage in the other. 4. A single executive magistrate is at the head of the one; a plurality is held out in the other. 5. In the one, a majority of the people of the United States must prevail; in the other, a minority may prevail. 6. The national legislature is to make laws in all cases to which the separate states are incompetent, &c.; in place of this, Congress are to have additional power in a few cases only. 7. A negative on the laws of the states; in place

of this, coercion to be substituted. 8. The executive to be removable on impeachment and conviction, in one plan; in the other, to be removable at the instance of a majority of the executives of the states. 9. Revision of the laws provided for, in one; no such check in the other. 10. Inferior national tribunals, in one; none such in the other. 11. In the one, jurisdiction of national tribunals to extend, &c.; an appellate jurisdiction only allowed in the other. 12. Here, the jurisdiction is to extend to all cases affecting the national peace and harmony; there, a few cases only are marked out. 13. Finally, the ratification is, in this, to be by the people themselves; in that, by the legislative authorities, according to the thirteenth Article of the Confederation.

With regard to the power of the Convention, he conceived himself authorized to conclude nothing, but to be at liberty to propose any thing. In this particular, he felt himself perfectly indifferent to the two plans.

With regard to the sentiments of the people, he conceived it difficult to know precisely what they are. Those of the particular circle in which one moved were commonly mistaken for the general voice. He could not persuade himself that the state governments and sovereignties were so much the idols of the people, nor a national government so obnoxious to them, as some supposed. Why should a national government be unpopular? Has it less dignity? Will each citizen enjoy under it less liberty or protection? Will a citizen of *Delaware* be degraded by becoming a citizen of the *United* States. Where do the people look at present for relief from the evils of which they complain? Is it from an internal reform of their governments? No, sir. It is from the national councils that relief is expected. For these reasons, he did not fear that the people would not follow us into a national government; and it will be a further recommendation of Mr. Randolph's plan, that it is to be submitted to them, and not to the legislatures, for ratification.

Proceeding now to the first point on which he had contrasted the two plans, he observed, that, anxious as he was for some augmentation of the federal powers, it would be with extreme reluctance, indeed, that he could ever consent to give powers to Congress. He had two reasons, either of which was sufficient,—first, Congress, as a legislative body, does not stand on the people; secondly, it is a single body.

1. He would not repeat the remarks he had formerly made on the principles of representation. He would only say, that an inequality in it has ever been a poison contaminating every branch of government. In

Great Britain, where this poison has had a full operation, the security of private rights is owing entirely to the purity of her tribunals of justice, the judges of which are neither appointed nor paid by a venal parliament. The political liberty of that nation, owing to the inequality of representation, is at the mercy of its rulers. He means not to insinuate that there is any parallel between the situation of that country and ours, at present. But it is a lesson we ought not to disregard, that the smallest bodies in Great Britain are notoriously the most corrupt. Every other source of influence must also be stronger in small than in large bodies of men. When Lord Chesterfield had told us that one of the Dutch provinces had been seduced into the views of France, he need not have added that it was not Holland, but one of the smallest of them. There are facts among ourselves which are known to all. Passing over others, we will only remark that the impost, so anxiously wished for by the public, was defeated not by any of the larger states in the Union.

2. Congress is a single legislature. Despotism comes on mankind in different shapes—sometimes in an executive, sometimes in a military one. Is there no danger of a legislative despotism? Theory and practice both proclaim it. If the legislative authority be not restrained, there can be neither liberty nor stability; and it can only be restrained by dividing it, within itself, into distinct and independent branches. In a single House there is no check but the inadequate one of the virtue and good sense of those who compose it.

On another great point, the contrast was equally favorable to the plan reported by the Committee of the Whole. It vested the executive powers in a single magistrate. The plan of New Jersey vested them in a plurality. In order to control the legislative authority, you must divide it. In order to control the executive, you must unite it. One man will be more responsible than three. Three will contend among themselves, till one becomes the master of his colleagues. In the triumvirates of Rome, first Cæsar, then Augustus, are witnesses of this truth. The kings of Sparta, and the consuls of Rome, prove also the factious consequences of dividing the executive magistracy. Having already taken up so much time, he would not, he said, proceed to any of the other points. Those on which he had dwelt are sufficient of themselves; and on the decision of them the fate of the others will depend.

Mr. PINCKNEY. The whole comes to this, as he conceived.

Give New Jersey an equal vote, and she will dismiss her scruples, and concur in the national system. He thought the Convention authorized to go any length, in recommending, which they found necessary to remedy the evils which produced this Convention.

Mr. ELLSWORTH proposed, as a more distinctive form of collecting the mind of the committee on the subject, "that the legislative power of the United States should remain in Congress." This was not seconded, though it seemed better calculated for the purpose than the first proposition of Mr. Patterson, in place of which Mr. Ellsworth wished to substitute it.

Mr. RANDOLPH was not scrupulous on the point of power. When the salvation of the republic was at stake, it would be treason to our trust, not to propose what we found necessary. He painted in strong colors the imbecility of the existing Confederacy, and the danger of delaying a substantial reform. In answer to the objection drawn from the sense of our constituents, as denoted by their acts relating to the Convention and the objects of their deliberation, he observed that, as each state acted separately in the case, it would have been indecent for it to have charged the existing constitution with all the vices which it might have perceived in it. The first state that set on foot this experiment would not have been justified in going so far, ignorant as it was of the opinion of others, and sensible as it must have been of the uncertainty of a successful issue to the experiment. There are reasons certainly of a peculiar nature, where the ordinary cautions must be dispensed with; and this is certainly one of them. He would not, as far as depended on him, leave any thing that seemed necessary, undone. The present moment is favorable, and is probably the last that will offer.

The true question is, whether we shall adhere to the federal plan, or introduce the national plan. The insufficiency of the former has been fully displayed by the trial already made. There are but two modes by which the end of a general government can be attained: the first, by coercion, as proposed by Mr. Patterson's plan; the second, by real legislation, as proposed by the other plan. Coercion he pronounced to be impracticable, expensive, cruel to individuals. It tended, also, to habituate the instruments of it to shed the blood, and riot in the spoils of their fellow-citizens, and consequently train them up for the service of ambition. We must resort, therefore, to a national legislation over individuals; for which Congress are unfit. To vest such

power in them would be blending the legislative with the executive, contrary to the received maxim on this subject. If the union of these powers, heretofore, in Congress has been safe, it has been owing to the general impotency of that body. Congress are, moreover, not elected by the people, but by the legislatures, who retain even a power of recall. They have, therefore, no will of their own; they are a mere diplomatic body, and are always obsequious to the views of the states, who are always encroaching on the authority of the United States. A provision for harmony among the states, as in trade, naturalization, &c.; for crushing rebellion, whenever it may rear its crest; and for certain other general benefits, must be made.

The powers for these purposes can never be given to a body inadequate as Congress are in point of representation, elected in the mode in which they are, and possessing no more confidence than they do; for, notwithstanding what has been said to the contrary, his own experience satisfied him that a rooted distrust of Congress pretty generally prevailed. A national government alone, properly constituted, will answer the purpose; and he begged it to be considered that the present is the last moment for establishing one. After this select experiment, the people will yield to despair.

The committee rose, and the House adjourned.

MONDAY, *June* 18.

In Committee of the Whole, on the propositions of Mr. Patterson and Mr. Randolph. On motion of Mr. DICKINSON, to postpone the first resolution in Mr. Patterson's plan, in order to take up the following, viz.:

"That the Articles of Confederation ought to be revised and amended, so as to render the government of the United States adequate to the exigencies, the preservation, and the prosperity of the Union,"— the postponement was agreed to by ten states; Pennsylvania divided.

Mr. HAMILTON had been hitherto silent on the business before the Convention, partly from respect to others whose superior abilities, age, and experience, rendered him unwilling to bring forward ideas dissimilar to theirs; and partly from his delicate situation with respect to his own state, to whose sentiments, as expressed by his colleagues, he could by no means accede. The crisis, however, which now marked our affairs, was too serious to permit any scruples whatever to prevail over the duty imposed on every man to contribute his efforts for the public safety and happiness. He was obliged, therefore, to declare himself unfriendly to both plans. He was particularly opposed to that

from New Jersey, being fully convinced that no amendment of the Confederation, leaving the states in possession of their sovereignty, could possibly answer the purpose. On the other hand, he confessed he was much discouraged, by the amazing extent of country, in expecting the desired blessings from any general sovereignty that could be substituted. As to the powers of the Convention, he thought the doubts started on that subject had arisen from distinctions and reasonings too subtle. A federal government he conceived to mean an association of independent communities into one. Different confederacies have different powers, and exercise them in different ways. In some instances, the powers are exercised over collective bodies; in others, over individuals, as in the German Diet, and among ourselves, in cases of piracy. Great latitude, therefore, must be given to the signification of the term. The plan last proposed departs, itself, from the federal idea, as understood by some, since it is to operate eventually on individuals. He agreed, moreover, with the honorable gentleman from Virginia, (Mr. Randolph,) that we owed it to our country to do, on this emergency, whatever we should deem essential to its happiness. The states sent us here to provide for the exigencies of the Union. To rely on and propose any plan not adequate to these exigencies, merely because it was not clearly within our powers, would be to sacrifice the means to the end. It may be said, that the states cannot ratify a plan not within the purview of the Article of the Confederation providing for alterations and amendments. But may not the states themselves, in which no constitutional authority equal to this purpose exists in the legislatures, have had in view a reference to the people at large? In the senate of New York, a proviso was moved, that no act of the Convention should be binding until it should be referred to the people and ratified; and the motion was lost by a single voice only, the reason assigned against it being, that it might possibly be found an inconvenient shackle.

The great question is, what provision shall we make for the happiness of our country? He would first make a comparative examination of the two plans, prove that there were essential defects in both, and point out such changes as might render a national one efficacious. The great and essential principles necessary for the support of government are—1. An active and constant interest in supporting it. This principle does not exist in the states, in favor of the federal government. They have evidently in a high degree, the *esprit de corps.* They con-

stantly pursue internal interests adverse to those of the whole. They have their particular debts, their particular plans of finance, &c. All these, when opposed to, invariably prevail over, the requisitions and plans of Congress. 2. The love of power. Men love power. The same remarks are applicable to this principle. The states have constantly shown a disposition rather to regain the powers delegated by them, than to part with more, or to give effect to what they had parted with. The ambition of their demagogues is known to hate the control of the general government. It may be remarked, too, that the citizens have not that anxiety to prevent a dissolution of the general government as of the particular governments. A dissolution of the latter would be fatal; of the former, would still leave the purposes of government attainable to a considerable degree. Consider what such a state as Virginia will be in a few years—a few compared with the life of nations. How strongly will it feel its importance and self-sufficiency! 3. An habitual attachment of the people. The whole force of this tie is on the side of the state government. Its sovereignty is immediately before the eyes of the people; its protection is immediately enjoyed by them. From its hand distributive justice, and all those acts which familiarize and endear a government to a people, are dispensed to them. 4. Force, by which may be understood a coercion of laws, or coercion of arms. Congress have not the former, except in few cases. In particular states, this coercion is nearly sufficient; though he held it, in most cases, not entirely so. A certain portion of military force is absolutely necessary in large communities. Massachusetts is now feeling this necessity, and making provision for it. But how can this force be exerted on the states collectively? It is impossible. It amounts to a war between the parties. Foreign powers, also, will not be idle spectators. They will interpose; the confusion will increase; and a dissolution of the Union will ensue. 5. Influence,—he did not mean corruption, but a dispensation of those regular honors and emoluments which produce an attachment to the government. Almost all the weight of these is on the side of the states; and must continue so as long as the states continue to exist. All the passions, then, we see, of avarice, ambition, interest, which govern most individuals, and all public bodies, fall into the current of the states, and do not flow into the stream of the general government. The former, therefore, will generally be an overmatch for the general government, and render any confederacy in its very nature precarious. Theory is in this case fully confirmed by experience. The Amphictyonic Council

had, it would seem, ample powers for general purposes. It had, in particular, the power of fining and using force against delinquent members. What was the consequence? Their decrees were mere signals of war. The Phocian war is a striking example of it. Philip, at length, taking advantage of their disunion, and insinuating himself into their councils, made himself master of their fortunes. The German confederacy affords another lesson. The authority of Charlemagne seemed to be as great as could be necessary. The great feudal chiefs, however, exercising their local sovereignties, soon felt the spirit, and found the means, of encroachments, which reduced the imperial authority to a nominal sovereignty. The Diet has succeeded; which, though aided by a prince, at its head, of great authority independently of his imperial attributes, is a striking illustration of the weakness of confederated governments. Other examples instruct us in the same truth. The Swiss Cantons have scarce any union at all, and have been more than once at war with one another. How then are all these evils to be avoided? Only by such a complete sovereignty in the general government as will turn all the strong principles and passions above mentioned on its side. Does the scheme of New Jersey produce this effect? Does it afford any substantial remedy whatever? On the contrary, it labors under great defects, and the defect of some of its provisions will destroy the efficacy of others. It gives a direct revenue to Congress, but this will not be sufficient. The balance can only be supplied by requisitions; which experience proves cannot be relied on. If states are to deliberate on the mode, they will also deliberate on the object, of the supplies; and will grant or not grant, as they approve or disapprove of it. The delinquency of one will invite and countenance it in others. Quotas, too, must, in the nature of things, be so unequal, as to produce the same evil. To what standard will you resort? Land is a fallacious one. Compare Holland with Russia; France, or England, with other countries of Europe; Pennsylvania with North Carolina;—will the relative pecuniary abilities, in those instances, correspond with the relative value of land? Take numbers of inhabitants for the rule, and make like comparison of different countries, and you will find it to be equally unjust. The different degrees of industry and improvement in different countries render the first object a precarious measure of wealth. Much depends, too, on situation. Connecticut, New Jersey, and North Carolina, not being commercial states, and contributing to the wealth of the commercial ones, can never bear quotas assessed by the ordinary rules

of proportion. They will, and must, fail in their duty. Their example will be followed,—and the union itself be dissolved. Whence, then, is the national revenue to be drawn? From commerce; even from exports, which, notwithstanding the common opinion, are fit objects of moderate taxation; from excise, &c. &c.—These, though not equal, are less unequal than quotas. Another destructive ingredient in the plan is that equality of suffrage which is so much desired by the small states. It is not in human nature that Virginia and the large states should consent to it; or, if they did, that they should long abide by it. It shocks too much all ideas of justice, and every human feeling. Bad principles in a government, though slow, are sure in their operation, and will gradually destroy it. A doubt has been raised whether Congress at present have a right to keep ships or troops in time of peace. He leans to the negative. Mr Patterson's plan provides no remedy. If the powers proposed were adequate, the organization of Congress is such, that they could never be properly and effectually exercised. The members of Congress, being chosen by the states and subject to recall, represent all the local prejudices. Should the powers be found effectual, they will from time to time be heaped on them, till a tyrannic sway shall be established. The general power, whatever be its form, if it preserves itself, must swallow up the state powers. Otherwise, it will be swallowed up by them. It is against all the principles of a good government, to vest the requisite powers in such a body as Congress. Two sovereignties cannot co-exist within the same limits. Giving powers to Congress must eventuate in a bad government, or in no government. The plan of New Jersey, therefore, will not do. What, then, is to be done? Here he was embarrassed. The extent of the country to be governed discouraged him. The expense of a general government was also formidable; unless there were such a diminution of expense, on the side of the state governments, as the case would admit. If they were extinguished, he was persuaded that great economy might be obtained by substituting a general government. He did not mean, however, to shock the public opinion by proposing such a measure. On the other hand, he saw no other necessity for declining it. They are not necessary for any of the great purposes of commerce, revenue, or agriculture. Subordinate authorities, he was aware, would be necessary. There must be district tribunals; corporations for local purposes. But *cui bono* the vast and expensive apparatus now appertaining to the states? The only difficulty of a serious nature which occurred to him, was that of drawing

representatives from the extremes to the centre of the community. What inducements can be offered that will suffice? The moderate wages for the first branch could only be a bait to little demagogues. Three dollars, or thereabouts, he supposed, would be the utmost. The Senate, he feared, from a similar cause, would be filled by certain undertakers, who wish for particular offices under the government.

This view of the subject almost led him to despair that a republican government could be established over so great an extent. He was sensible, at the same time, that it would be unwise to propose one of any other form. In his private opinion, he had no scruple in declaring, supported as he was by the opinion of so many of the wise and good, that the British government was the best in the world; and that he doubted much whether any thing short of it would do in America. He hoped gentlemen of different opinions would bear with him in this, and begged them to recollect the change of opinion on this subject which had taken place, and was still going on. It was once thought, that the power of Congress was amply sufficient to secure the end of their institution. The error was now seen by every one. The members most tenacious of republicanism, he observed, were as loud as any in declaiming against the vices of democracy. This progress of the public mind led him to anticipate the time, when others as well as himself would join in the praise bestowed by Mr. Neckar on the British constitution—namely, that it is the only government in the world "which unites public strength with individual security." In every community where industry is encouraged, there will be a division of it into the few and the many. Hence, separate interests will arise. There will be debtors and creditors, &c. Give all power to the many, they will oppress the few. Give all power to the few, they will oppress the many. Both, therefore, ought to have the power, that each may defend itself against the other. To the want of this check, we owe our paper money, installment laws, &c. To the proper adjustment of it, the British owe the excellence of their constitution. Their House of Lords is a most noble institution. Having nothing to hope for by a change, and a sufficient interest, by means of their property, in being faithful to the national interest, they form a permanent barrier against every pernicious innovation, whether attempted on the part of the crown or of the commons. No temporary Senate will have firmness enough to answer the purpose. The senate of Maryland, which seems to be so much appealed to, has not yet been sufficiently tried. Had the people been unanimous and

eager in the late appeal to them on the subject of a paper emission, they would have yielded to the torrent. Their acquiescing in such an appeal is a proof of it. Gentlemen differ in their opinions concerning the necessary checks, from the different estimates they form of the human passions. They suppose seven years a sufficient period to give the Senate an adequate firmness, from not duly considering the amazing violence and turbulence of the democratic spirit. When a great object of government is pursued, which seizes the popular passions, they spread like wild-fire and become irresistible. He appealed to the gentlemen from the New England States, whether experience had not there verified the remark. As to the executive, it seemed to be admitted that no good one could be established on republican principles. Was not this giving up the merits of the question; for can there be a good government without a good executive? The English model was the only good one on this subject. The hereditary interest of the king was so interwoven with that of the nation, and his personal emolument so great, that he was placed above the danger of being corrupted from abroad; and at the same time was both sufficiently independent and sufficiently controlled, to answer the purpose of the institution at home. One of the weak sides of republics was their being liable to foreign influence and corruption. Men of little character, acquiring great power, become easily the tools of intermeddling neighbors. Sweden was a striking instance. The French and English had each their parties during the late revolution, which was effected by the predominant influence of the former. What is the inference from all these observations? That we ought to go as far, in order to attain stability and permanency, as republican principles will admit. Let one branch of the legislature hold their places for life, or at least during good behavior. Let the executive, also, be for life. He appealed to the feelings of the members present, whether a term of seven years would induce the sacrifices of private affairs which an acceptance of public trust would require, so as to insure the services of the best citizens. On this plan, we should have in the Senate a permanent will, a weighty interest, which would answer essential purposes. But is this a republican government, it will be asked. Yes, if all the magistrates are appointed and vacancies are filled by the people, or a process of election originating with the people. He was sensible that an executive, constituted as he proposed, would have in fact but little of the power and independence that might be necessary. On the other plan, of appointing him for seven years, he

thought the executive ought to have but little power. He would be ambitious, with the means of making creatures; and as the object of his ambition would be to prolong his power, it is probable that, in case of war, he would avail himself of the emergency, to evade or refuse a degradation from his place. An executive for life has not this motive for forgetting his fidelity, and will therefore be a safer depository of power. It will be objected, probably, that such an executive will be an elective monarch, and will give birth to the tumults which characterize that form of government, he would reply, that monarch is an indefinite term. It marks not either the degree or duration of power. If this executive magistrate would be a monarch for life, the other proposed by the report from the Committee of the Whole would be a monarch for seven years. The circumstance of being elective was also applicable to both. It had been observed, by judicious writers, that elective monarchies would be the best if they could be guarded against the tumults excited by the ambition and intrigues of competitors. He was not sure that tumults were an inseparable evil. He thought this character of elective monarchies had been taken rather from particular cases than from general principles. The election of Roman emperors was made by the army. In Poland, the election is made by great rival princes, with independent power, and ample means of raising commotions. In the German empire, the appointment is made by the electors and princes, who have equal motives and means for exciting cabals and parties. Might not such a mode of election be devised, among ourselves, as will defend the community against these effects in any dangerous degree? Having made these observations, he would read to the committee a sketch of a plan which he should prefer to either of those under consideration. He was aware that it went beyond the ideas of most members. But will such a plan be adopted out of doors? In return he would ask, will the people adopt the other plan? At present they will adopt neither. But he sees the Union dissolving, or already dissolved —he sees evils operating in the states which must soon cure the people of their fondness for democracies—he sees that a great progress has been already made, and is still going on, in the public mind. He thinks, therefore, that the people will in time be unshackled from their prejudices; and whenever that happens, they will themselves not be satisfied at stopping where the plan of Mr. Randolph would place them, but be ready to go as far at least as he proposes. He did not mean to offer the paper he had sketched as a proposition to that committee. It was

meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose to the plan of Mr. Randolph, in the proper stages of its future discussion. He reads his sketch in the words following, to-wit:

"I. The supreme legislative power of the United States of America to be vested in two different bodies of men; the one to be called the assembly, the other the senate; who, together, shall form the legislature of the United States, with power to pass all laws whatsoever, subject to the negative hereafter mentioned.

"II. The assembly to consist of persons elected by the people, to serve for three years.

"III. The senate to consist of persons elected to serve during good behavior; their election to be made by electors chosen for that purpose by the people. In order to this, the states to be divided into election districts. On the death, removal, or resignation of any senator, his place to be filled out of the district from which he came.

"IV. The supreme executive authority of the United States to be vested in a governor, to be elected to serve during good behavior; the election to be made by electors chosen by the people in the election districts aforesaid. The authorities and functions of the executive to be as follows: to have a negative on all laws about to be passed, and the execution of all laws passed; to have the direction of war when authorized or begun; to have, with the advice and approbation of the senate, the power of making all treaties; to have the sole appointment of the heads or chief officers of the departments of finance, war, and foreign affairs; to have the nomination of all other officers (ambassadors to foreign nations included), subject to the approbation or rejection of the senate; to have the power of pardoning all offenses except treason, which he shall not pardon without the approbation of the senate.

"V. On the death, resignation, or removal of the governor, his authorities to be exercised by the president of the senate till a successor be appointed.

"VI. The senate to have the sole power of declaring war; the power of advising and approving all treaties; the power of approving or rejecting all appointments of officers, except the heads or chiefs of the departments of finance, war, and foreign affairs.

"VII. The supreme judicial authority to be vested in judges, to hold their offices during good behavior, with adequate and permanent salaries. This court to have original jurisdiction in all causes of capture, and an appellative jurisdiction in all causes in which the revenues of the general government, or the citizens of foreign nations, are concerned.

"VIII. The legislature of the United States to have power to institute courts in each state for the determination of all matters of general concern.

"IX. The governor, senators, and all officers of the United States, to be liable to impeachment for mal- and corrupt conduct; and, upon conviction, to be removed from office, and disqualified for holding any place of trust or profit; all impeachments to be tried by a court to con-

sist of the chief ————, or judge of the superior court of law of each state, provided such judge shall hold his place during good behavior and have a permanent salary.

"X. All laws of the particular states contrary to the constitution or laws of the United States to be utterly void; and, the better to prevent such laws being passed, the governor or president of each state shall be appointed by the general government, and shall have a negative upon the laws about to be passed in the state of which he is the governor or president.

"XI. No state to have any forces, land or naval; and the militia of all the states to be under the sole and exclusive direction of the United States, the officers of which are to be appointed and commissioned by them."

On these several articles he entered into explanatory observations corresponding with the principles of his introductory reasoning.

The committee rose, and the House adjourned.

TUESDAY, *June* 19.

In Committee of the Whole, on the propositions of Mr. Patterson. The substitute offered yesterday by Mr. Dickinson being rejected by a vote now taken on it,—

Connecticut, New York, New Jersey, Delaware, aye, 4; Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, no, 6; Maryland, divided.

Mr. Patterson's plan was again at large before the committee.

Mr. MADISON. Much stress has been laid by some gentlemen on the want of power in the Convention to propose any other than a federal plan. To what had been answered by others, he would only add, that neither of the characteristics attached to a federal plan would support this objection. One characteristic was, that, in a federal government, the power was exercised, not on the people individually, but on the people collectively, on the states. Yet in some instances, as in piracies, captures, etc., the existing Confederacy and in many instances the amendments to it proposed by Mr. Patterson, must operate immediately on individuals. The other characteristic was, that a federal government derived its appointments not immediately from the people, but from the states which they respectively composed. Here, too, were facts on the other side. In two of the states, Connecticut and Rhode Island, the delegates to Congress were chosen, not by the legislatures, but by the people at large; and the plan of Mr. Patterson intended no change in this particular.

It had been alleged (by Mr. Patterson) that the Confederation, having been formed by unanimous consent, could be dissolved by

unanimous consent only. Does this doctrine result from the nature of compacts? Does it arise from any particular stipulation in the Articles of Confederation? If we consider the Federal Union as analagous to the fundamental compact by which individuals compose one society, and which must, in its theoretic origin at least, have been the unanimous act of the component members, it cannot be said that no dissolution of the compact can be effected without unanimous consent. A breach of the fundamental principles of the compact, by a part of the society, would certainly absolve the other part from their obligations to it. If the breach of any article, by any of the parties, does not set the others at liberty, it is because the contrary is implied in the compact itself, and particularly by that law of it which gives an indefinite authority to the majority to bind the whole, in all cases. This latter circumstance shows, that we are not to consider the Federal Union as analogous to the social compact of individuals: for, if it were so, a majority would have a right to bind the rest, and even to form a new constitution for the whole; which the gentleman from New Jersey would be among the last to admit. If we consider the Federal Union as analogous, not to the social compacts among individual men, but to the conventions among individual states, what is the doctrine resulting from these conventions? Clearly, according to the expositors of the law of nations, that a breach of any one article, by any one party, leaves all the other parties at liberty to consider the whole convention as dissolved, unless they choose rather to compel the delinquent party to repair the breach. In some treaties, indeed, it is expressly stipulated that a violation of particular articles shall not have this consequence, and even that particular articles shall remain in force during war, which is in general understood to dissolve all subsisting treaties. But are there any exceptions of this sort to the Articles of Confederation? So far from it, that there is not even an express stipulation that force shall be used to compel an offending member of the Union to discharge its duty. He observed that the violation of the Federal Articles had been numerous and notorious. Among the most notorious was an act of New Jersey herself; by which she expressly refused to comply with a constitutional requisition of Congress, and yielded no further to the expostulations of their deputies, than barely to rescind her vote of refusal, without passing any positive act of compliance. He did not wish to draw any rigid inferences from these observations. He thought it proper, however, that the true nature of the existing Confederacy should be investigated, and

he was not anxious to strengthen the foundations on which it now stands.

Proceeding to the consideration of Mr. Patterson's plan, he stated the object of a proper plan to be two-fold—first, to preserve the Union; secondly, to provide a government that will remedy the evils felt by the states, both in their united and individual capacities. Examine Mr. Patterson's plan, and say whether it promises satisfaction in these respects.

1. Will it prevent the violations of the law of nations and of treaties, which, if not prevented, must involve us in the calumnies of foreign wars? The tendency of the states to these violations has been manifested in sundry instances. The files of Congress contain complaints, already, from almost every nation with which treaties have been formed. Hitherto, indulgence has been shown to us. This cannot be the permanent disposition of foreign nations. A rupture with other powers is among the greatest of national calamities; it ought, therefore, to be effectually provided, that no part of a nation shall have it in its power to bring them on the whole. The existing Confederacy does not sufficiently provide against this evil. The proposed amendment to it does not supply the omission. It leaves the will of the states as uncontrolled as ever.

2. Will it prevent encroachments on the federal authority? A tendency to such encroachments has been sufficiently exemplified among ourselves, as well as in every other confederated republic, ancient and modern. By the Federal Articles, transactions with the Indians appertain to Congress, yet in several instances the states have entered into treaties and wars with them. In like manner, no two or more states can form among themselves any treaties, etc., without the consent of Congress; yet Virginia and Maryland, in one instance—Pennsylvania and New Jersey, in another—have entered into compacts without previous application or subsequent apology. No state, again, can of right raise troops in time of peace without the like consent. Of all cases of the league, this seems to require the most scrupulous observance. Has not Massachusetts, notwithstanding (the most powerful member of the Union), already raised a body of troops? Is she not now augmenting them, without having even deigned to apprise Congress of her intentions? In fine, have we not seen the public land dealt out to Connecticut to bribe her acquiescence in the decree constitutionally awarded against her claim on the territory of Pennsylvania?—for no other pos-

sible motive can account for the policy of Congress in that measure. If we recur to the examples of other confederacies, we shall find in all of them the same tendency of the parts to encroach on the authority of the whole. He then reviewed the Amphictyonic and Achæan confederacies, among the ancients, and the Helvetic, Germanic, and Belgic, among the moderns; tracing their analogy to the United States in the constitution and extent of their federal authorities; in the tendency of the particular members to usurp on these authorities, and to bring confusion and ruin on the whole. He observed that the plan of Mr. Patterson, besides omitting a control over the states, as a general defense of the federal prerogatives, was particularly defective in two of its provisions. In the first place, its ratification was not to be by the people at large, but by the legislatures. It could not, therefore, render the acts of Congress, in pursuance of their powers, even legally paramount to the acts of the states. And, in the second place, it gave to the federal tribunal an appellate jurisdiction only even in the criminal cases enumerated. The necessity of any such provision supposed a danger of undue acquittal in the state tribunals; of what avail would an appellate tribunal be after an acquittal? Besides, in most, if not all, of the states, the executives have, by their respective constitutions, the right of pardoning: how could this be taken from them by a legislative ratification only?

3. Will it prevent trespasses of the states on each other? Of these, enough has been already seen. He instanced acts of Virginia and Maryland, which gave a preference to their own citizens in cases where the citizens of other states are entitled to equality of privileges by the Articles of Confederation. He considered the emissions of paper money, and other kindred measures, as also aggressions. The states, relatively to one another, being each of them either debtor or creditor, the creditor states must suffer unjustly from every emission by the debtor states. We have seen retaliating acts on the subject, which threatened danger, not to the harmony only, but the tranquility of the Union. The plan of Mr. Patterson, not giving even a negative on the acts of the states, left them as much at liberty as ever to execute their unrighteous projects against each other.

4. Will it secure the internal tranquility of the states themselves? The insurrections in Massachusetts admonished all the states of the danger to which they were exposed. Yet the plan of Mr. Patterson contained no provisions for supplying the defect of the Confederation

on this point. According to the republican theory, indeed, right and power, being both vested in the majority, are held to be synonymous. According to fact and experience, a minority may, in an appeal to force, be an overmatch for the majority; in the first place, if the minority happen to include all such as possess the skill and habits of military life, with such as possess the great pecuniary resources, one-third may conquer the remaining two-thirds; in the second place, one-third of those who participate in the choice of rulers may be rendered a majority by the accession of those whose poverty disqualifies them from a suffrage, and who, for obvious reasons, must be more ready to join the standard of sedition than that of established government; and, in the third place, where slavery exists, the republican theory becomes still more fallacious.

5. Will it secure a good internal legislation and administration to the particular states? In developing the evils which vitiate the political system of the United States, it is proper to take into view those which prevail within the states individually, as well as those which affect them collectively; since the former indirectly affect the whole, and there is great reason to believe that the pressure of them had a full share in the motives which produced the present Convention. Under this head he enumerated and animadverted on—first, the multiplicity of the laws passed by the several states; secondly, the mutability of their laws; thirdly, the injustice of them; and, fourthly, the impotence of them; observing that Mr. Patterson's plan contained no remedy for this dreadful class of evils, and could not therefore be received as an adequate provision for the exigencies of the community.

6. Will it secure the Union against the influence of foreign powers over its members? He pretended not to say that any such influence had yet been tried: but it was naturally to be expected that occasions would produce it. As lessons which claimed particular attention, he cited the intrigues practiced among the Amphictyonic confederates, first by the kings of Persia, and afterwards, fatally, by Philip of Macedon; among the Achæans, first by Macedon, and afterwards, no less fatally, by Rome; among the Swiss, by Austria, France, and the lesser neighboring powers; among the members of the Germanic body, by France, England, Spain, and Russia; and in the Belgic republic, by all the great neighboring powers. The plan of Mr. Patterson, not giving to the general councils any negative on the will of the particular states, left the door open for the like pernicious machinations among ourselves.

7. He begged the smaller states, which were most attached to Mr. Patterson's plan, to consider the situation in which it would leave them. In the first place, they would continue to bear the whole expense of maintaining their delegates in Congress. It ought not to be said that, if they were willing to bear this burden, no others had a right to complain. As far as it led the smaller states to forbear keeping up a representation, by which the public business was delayed, it was evidently a matter of common concern. An examination of the minutes of Congress would satisfy everyone that the public business had been frequently delayed by this cause; and that the states most frequently unrepresented in Congress were not the larger states. He reminded the Convention of another consequence of leaving on a small state the burden of maintaining a representation in Congress. During a considerable period of the war, one of the representatives of Delaware, in whom alone, before the signing of the Confederation, the entire vote of that state, and after that event one-half of its vote, frequently resided, was a citizen and resident of Pennsylvania, and held an office in his own state incompatible with an appointment from it to Congress. During another period, the same state was represented by three delegates, two of whom were citizens of Pennsylvania, and the third a resident of New Jersey. These expedients must have been intended to avoid the burden of supporting delegates from their own state. But whatever might have been the cause, was not, in effect, the vote of one state doubled, and the influence of another increased by it? In the second place, the coercion on which the efficacy of the plan depends can never be exerted but on themselves. The larger states will be impregnable, the smaller only can feel the vengeance of it. He illustrated the position by the history of the Amphictyonic confederates; and the ban of the German empire. It was the cobweb which could entangle the weak, but would be the sport of the strong.

8. He begged them to consider the situation in which they would remain, in case their pertinacious adherence to an inadmissible plan should prevent the adoption of any plan. The contemplation of such an event was painful; but it would be prudent to submit to the task of examining it at a distance, that the means of escaping it might be the more readily embraced. Let the union of the states be dissolved, and one of two consequences must happen. Either the states must remain individually independent and sovereign; or two or more confederacies must be formed among them. In the first event, would the small states

be more secure against the ambition and power of their larger neighbors, than they would be under a general government pervading with equal energy every part of the empire, and having an equal interest in protecting every part against every other part? In the second, can the smaller expect that their larger neighbors would confederate with them on the principle of the present Confederacy, which gives to each member an equal suffrage; or that they would exact less severe concessions from the smaller states, than are proposed in the scheme of Mr. Randolph?

The great difficulty lies in the affair of representation; and if this could be adjusted, all others would be surmountable. It was admitted by both the gentlemen from New Jersey (Mr. Brearly and Mr. Patterson) that it would not be just to allow Virginia, which was sixteen times as large as Delaware, an equal vote only. Their language was, that it would not be safe for Delaware to allow Virginia sixteen times as many votes. The expedient proposed by them was, that all the states should be thrown into one mass, and a new partition be made into thirteen equal parts. Would such a scheme be practicable? The dissimilarities existing in the rules of property, as well as in the manners, habits, and prejudices, of different states, amounted to a prohibition of the attempt. It had been found impossible for the power of one of the most absolute princes in Europe (the king of France), directed by the wisdom of one of the most enlightened and patriotic ministers (Mr. Neckar) that any age has produced, to equalize, in some points only, the different usages and regulations of the different provinces. But, admitting a general amalgamation and repartition of the states to be practicable, and the danger apprehended by the smaller states from a proportional representation to be real—would not a particular and voluntary coalition of these with their neighbors be less inconvenient to the whole community, and equally effectual for their own safety? If New Jersey or Delaware conceived that an advantage would accrue to them from an equalization of the states, in which case they would necessarily form a junction with their neighbors, why might not this end be attained by leaving them at liberty by the Constitution to form such a junction whenever they pleased? And why should they wish to obtrude a like arrangement on all the states, when it was, to say the least, extremely difficult, would be obnoxious to many of the states, and when neither the inconvenience, nor the benefit, of the expedient, to themselves, would be lessened by confining it to themselves? The prospect of many new states to the

westward was another consideration of importance. If they should come into the Union at all, they would come when they contained but few inhabitants. If they should be entitled to vote according to their proportion of inhabitants, all would be right and safe. Let them have an equal vote, and a more objectionable minority than ever might give law to the whole.

On a question for postponing generally the first proposition of Mr. Patterson's plan, it was agreed to, New York and New Jersey only being, no.

On the question, moved by Mr. KING, whether the committee should rise, and Mr. Randolph's proposition be reported without alteration, which was in fact a question whether Mr. Randolph's should be adhered to as preferable to those of Mr. Patterson,—

Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye, 7; New York, New Jersey, Delaware, no, 3; Maryland, divided.

Mr. Randolph's plan, as reported from the committee [q. v. June 13th] being before the House, and—

The first resolution, "that a national government ought to be established, consisting, etc.," being taken up,

Mr. WILSON observed that, by a national government, he did not mean one that would swallow up the state governments, as seemed to be wished by some gentlemen. He was tenacious of the idea of preserving the latter. He thought, contrary to the opinion of Col. Hamilton, that they might not only subsist, but subsist on friendly terms with the former. They were absolutely necessary for certain purposes, which the former could not reach. All large governments must be subdivided into lesser jurisdictions. As examples he mentioned Persia, Rome, and particularly the divisions and subdivisions of England by Alfred.

Col. HAMILTON coincided with the proposition as it stood in the report. He had not been understood yesterday. By an abolition of the states, he meant that no boundary could be drawn between the national and state legislatures; that the former must therefore have indefinite authority. If it were limited at all, the rivalship of the states would gradually subvert it. Even as corporations, the extent of some of them, as Virginia, Massachusetts, etc., would be formidable. As states, he thought they ought to be abolished. But he admitted the necessity of leaving in them subordinate jurisdictions. The examples of Persia and the Roman empire, cited by Mr. Wilson, were, he thought, in favor of

his doctrine, the great powers delegated to the satraps and proconsuls having frequently produced revolts and schemes of independence.

Mr. KING wished, as everything depended on this proposition, that no objection might be improperly indulged against the phraseology of it. He conceived that the import of the term "states," "sovereignty," "national," "federal," had often been used and applied in the discussions inaccurately and delusively. The states were not "sovereigns" in the sense contended for by some. They did not possess the peculiar features of sovereignty—they could not make war, nor peace, nor alliances, nor treaties. Considering them as political beings, they were dumb, for they could not speak to any foreign sovereign whatever. They were deaf, for they could not hear any propositions from such sovereign. They had not even the organs or faculties of defense or offense, for they could not of themselves raise troops, or equip vessels, for war. On the other side, if the union of the states comprises the idea of a confederation, it comprises that also of consolidation. A union of the states is a union of the men composing them, from whence a national character results to the whole. Congress can act alone without the states; they can act (and their acts will be binding), against the instructions of the states. If they declare war, war is *de jure* declared; captures made in pursuance of it are lawful; no acts of the states can vary the situation, or prevent the judicial consequences. If the states, therefore, retained some portion of their sovereignty, they had certainly divested themselves of essential portions of it. If they formed a confederacy in some respects, they formed a nation in others. The Convention could clearly deliberate on and propose any alterations that Congress could have done under the Federal Articles. And could not Congress propose, by virtue of the last article, a change in any article whatever—and as well that relating to the equality of suffrage as any other? He made these remarks to obviate some scruples which had been expressed. He doubted much the practicability of annihilating the states; but thought that much of their power ought to be taken from them.

Mr. MARTIN said he considered that the separation from Great Britain placed the thirteen states in a state of nature towards each other; that they would have remained in that state till his time, but for the Confederation; that they entered into the Confederation on the footing of equality; that they met now to amend it, on the same footing; and that he could never accede to a plan that would introduce an inequality,

and lay ten states at the mercy of Virginia, Massachusetts, and Pennsylvania.

Mr. WILSON could not admit the doctrine that, when the colonies became independent of Great Britain, they became independent also of each other. He read the Declaration of Independence, observing thereon, that the United Colonies were declared to be free and independent states, and inferring, that they were independent, not individually, but unitedly, and that they were confederated, as they were independent states.

Col. HAMILTON assented to the doctrine of Mr. Wilson. He denied the doctrine that the states were thrown into a state of nature. He was not yet prepared to admit the doctrine that the Confederacy could be dissolved by partial infractions of it. He admitted that the states met now on an equal footing, but could see no inference from that against concerting a change of the system in this particular. He took this occasion of observing, for the purpose of appeasing the fear of the small states, that two circumstances would render them secure under a national government in which they might lose the equality of rank which they now held: one was the local situation of the three largest states, Virginia, Massachusetts and Pennsylvania. They were separated from each other by distance of place, and equally so by all the peculiarities which distinguish the interests of one state from those of another. No combination, therefore, could be dreaded. In the second place, as there was a gradation in the states, from Virginia, the largest, down to Delaware, the smallest, it would always happen that ambitious combinations among a few states might and would be counteracted by defensive combinations of greater extent among the rest. No combination has been seen among the large counties, merely as such, against lesser counties. The more close the union of the states, and the more complete the authority of the whole, the less opportunity will be allowed to the stronger states to injure the weaker.

Adjourned.

THURSDAY, *June* 21.

In Convention.—Mr. Jonathan Dayton, from New Jersey, took his seat.

The second resolution in the report from the Committee of the Whole being under consideration,—

Dr. JOHNSON. On a comparison of the two plans which had been proposed from Virginia and New Jersey, it appeared that the pecu-

liarity which characterized the latter was its being calculated to preserve the individuality of the states. The plan from Virginia did not profess to destroy this individuality altogether, but was charged with such a tendency. One gentleman alone (Col. Hamilton), in his animadversions on the plan of New Jersey, boldly and decisively contended for an abolition of the state governments. Mr. Wilson and the gentleman from Virginia, who also were adversaries of the plan of New Jersey, held a different language. They wished to leave the states in possession of a considerable, though subordinate, jurisdiction. They had not yet, however, shown how this could consist with, or be secured against, the general sovereignty and jurisdiction which they proposed to give to the national government. If this could be shown, in such a manner as to satisfy the patrons of the New Jersey propositions that the individuality of the states would not be endangered, many of their objections would, no doubt, be removed. If this could not be shown, their objections would have their full force. He wished it, therefore, to be well considered whether, in case the states, as was proposed, should retain some portion of sovereignty at least, this portion could be preserved, without allowing them to participate effectually in the general government—without giving them each a distinct and equal vote for the purpose of defending themselves in the general councils.

Mr. WILSON'S respect for Dr. Johnson, added to the importance of the subject, led him to attempt, unprepared as he was, to solve the difficulty which had been started. It was asked, how the general government and individuality of the particular states could be reconciled to each other—and how the latter could be secured against the former? Might it not, on the other side, be asked, how the former was to be secured against the latter? It was generally admitted that a jealousy and rivalship would be felt between the general and particular governments. As the plan now stood, though indeed contrary to his opinion, one branch of the general government (the Senate, or second branch) was to be appointed by the state legislatures. The state legislatures, therefore, by this participation in the general government, would have an opportunity of defending their rights. Ought not a reciprocal opportunity to be given to the general government of defending itself, by having an appointment of some one constituent branch of the state governments? If a security be necessary on one side, it would seem reasonable to demand it on the other. But, taking the matter in a more general view, he saw no danger to the states from the general government. In case a combination should be made by the large ones, it would

produce a general alarm among the rest, and the project would be frustrated. But there was no temptation to such a project. The states having in general a similar interest, in case of any propositions in the national legislature to encroach on the state legislatures, he conceived a general alarm would take place in the national legislature itself; that it would communicate itself to the state legislatures; and would finally spread among the people at large. The general government will be as ready to preserve the rights of the states, as the latter are to preserve the rights of individuals—all the members of the former having a common interest, as representatives of all the people of the latter, to leave the state governments in possession of what the people wish them to retain. He could not discover, therefore, any danger whatever on the side from which it was apprehended. On the contrary, he conceived that, in spite of every precaution, the general government would be in perpetual danger of encroachments from the state governments.

Mr. MADISON was of opinion—in the first place, that there was less danger of encroachment from the general government than from the state governments; and, in the second place, that the mischiefs from encroachments would be less fatal if made by the former, than if made by the latter.

1. All the examples of other confederacies prove the greater tendency, in such systems, to anarchy than to tyranny; to a disobedience of the members than usurpations of the federal head. Our own experience had fully illustrated this tendency. But it will be said, that the proposed change in the principles and form of the Union will vary the tendency; that the general government will have real and greater powers, and will be derived, in one branch at least, from the people, not from the governments of the states. To give full force to this objection, let it be supposed for a moment that indefinite power should be given to the general legislature, and the states reduced to corporations dependent on the general legislature—why should it follow that the general government would take from the states any branch of their power, as far as its operation was beneficial, and its continuance desirable to the people? In some of the states, particularly in Connecticut, all the townships are incorporated, and have a certain limited jurisdiction; have the representatives of the people of the townships in the legislature of the state ever endavored to despoil the townships of any part of their local authority? As far as this local authority is convenient to the people, they are attached to it; and their representatives, chosen by and amenable to them, naturally respect their attachment to this,

as much as their attachment to any other right or interest. The relation of a general government to state governments is parallel.

2. Guards were more necessary against encroachments of the state governments on the general government, than of the latter on the former. The great objection made against an abolition of the state governments was, that the general government could not extend its care to all the minute objects which fall under the cognizance of the local jurisdictions. The objection as stated lay not against the probable abuse of the general power, but against the imperfect use that could be made of it throughout so great an extent of country, and over so great a variety of objects. As far as its operation would be practicable, it could not in this view be improper; as far as it would be impracticable, the convenience of the general government itself would concur with that of the people in the maintenance of subordinate governments. Were it practicable for the general government to extend its care to every requisite object without the co-operation of the state governments, the people would not be less free, as members of one great republic, than as members of thirteen small ones. A citizen of Delaware was not more free than a citizen of Virginia; nor would either be more free than a citizen of America. Supposing, therefore, a tendency in the general government to absorb the state governments, no fatal consequence could result. Taking the reverse as the supposition, that a tendency should be left in the state governments towards an independence on the general government, and the gloomy consequences need not be pointed out. The imagination of them must have suggested to the states the experiment we are now making to prevent the calamity, and must have formed the chief motive with those present to undertake the arduous task.

On the question for resolving, "that the legislature ought to consist of two branches,"—

Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye, 7; New York, New Jersey, Delaware, no, 3; Maryland, divided.

The third resolution of the report being taken into consideration—

Gen. PINCKNEY moved "that the first branch, instead of being elected by the people, should be elected in such manner as the legislature of each state should direct." He urged—first, that this liberty would give more satisfaction, as the legislatures could then accommodate the mode to the convenience and opinions of the people; secondly, that it would avoid the undue influence of large counties, which would

prevail if the elections were to be made in districts, as must be the mode intended by the report of the committee; thirdly, that otherwise, disputed elections must be referred to the general legislature, which would be attended with intolerable expense and trouble to the distant parts of the republic.

Mr. L. MARTIN seconded the motion.

Col. HAMILTON considered the motion as intended manifestly to transfer the election from the people to the state legislatures, which would essentially vitiate the plan. It would increase that state influence which could not be too watchfully guarded against. All, too, must admit the possibility, in case the general government should maintain itself, that the state governments might gradually dwindle into nothing. The system, therefore, should not be engrafted on what might possibly fail.

Mr. MASON urged the necessity of retaining the election by the people. Whatever inconvenience may attend the democratic principle, it must actuate one part of the government. It is the only security for the rights of the people.

Mr. SHERMAN would like an election by the legislatures best, but is content with the plan as it stands.

Mr. RUTLEDGE could not admit the solidity of the distinction between a mediate and immediate election by the people. It was the same thing to act by one's self, and to act by another. An election by the legislature would be more refined than an election immediately by the people; and would be more likely to correspond with the sense of the whole community. If this Convention had been chosen by the people in districts, it is not to be supposed that such proper characters would have been preferred. The delegates to Congress, he thought, had also been fitter men than would have been appointed by the people at large.

Mr. WILSON considered the election of the first branch by the people not only as the corner-stone, but as the foundation, of the fabric; and that the difference between a mediate and immediate election was immense. The difference was particularly worthy of notice in this respect—that the legislatures are actuated not merely by the sentiment of the people, but have an official sentiment opposed to that of the general government, and perhaps to that of the people themselves.

Mr. KING enlarged on the same distinction. He supposed the legislatures would constantly choose men subservient to their own views, as contrasted to the general interest; and that they might even

devise modes of election that would be subversive of the end in view. He remarked several instances in which the views of a state might be at variance with those of the general government; and mentioned particularly a competition between the national and state debts, for the most certain and productive funds.

Gen. PINCKNEY was for making the state governments a part of the general system. If they were to be abolished, or lose their agency, South Carolina and the other states would have but a small share of the benefits of government.

On the question for Gen. Pinckney's motion, to substitute "election of the first branch in such mode as the legislatures should appoint," instead of its being "elected by the people,"

Connecticut, New Jersey, Delaware, South Carolina, aye, 4; Massachusetts, New York, Pennsylvania, Virginia, North Carolina, Georgia, no, 6; Maryland, divided.

Gen. PINCKNEY then moved "that the first branch be elected by the people in such mode as the legislatures should direct;" but waived it on its being hinted that such a provision might be more properly tried in the detail of the plan.

On the question for the election of the first branch "by the people,"—

Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, aye, 9; New Jersey, no, 1; Maryland, divided.

WEDNESDAY, *June 27.*

In Convention.—Mr. RUTLEDGE moved to postpone the sixth resolution, defining the powers of Congress, in order to take up the seventh and eighth, which involved the most fundamental points, the rules of suffrage in the two branches; which was agreed to, *nem. con.*

A question being proposed on the seventh resolution, declaring that the suffrage in the first branch should be according to an equitable ratio,—

Mr. L. MARTIN contended, at great length, and with great eagerness, that the general government was meant merely to preserve the state governments, not to govern individuals; that its powers ought to be kept within narrow limits: that if too little power was given it, more might be added; but that if too much, it could never be resumed: that individuals, as such, have little to do but with their own states: that the general government has no more to apprehend from the states composing the Union, while it pursues proper measures, than a government over individuals has to apprehend from its subjects: that to resort

to the citizens at large, for their sanction to a new government, will be throwing them back into a state of nature: that the dissolution of the state governments is involved in the nature of the process: that the people have no right to do this, without the consent of those to whom they have delegated their power for state purposes: through their tongues only they can speak, through their ears only they can hear: that the states have shown a good disposition to comply with the acts of Congress, weak, contemptibly weak, as that body has been; and have failed through inability alone to comply: that the heaviness of the private debts, and the waste of property during the war, were the chief causes of this inability: that he did not conceive the instances mentioned, by Mr. Madison, of compacts between Virginia and Maryland, between Pennsylvania and New Jersey, or of troops raised by Massachusetts for defense against the rebels, to be violations of the Articles of Confederation: that an equal vote in each state was essential to the federal idea, and was founded in justice and freedom, not merely in policy: that though the states may give up this right of sovereignty, yet they had not, and ought not: that the states, like individuals, were, in a state of nature, equally sovereign and free. In order to prove that individuals in a state of nature are equally free and independent, he read passages from Locke, Vattel, Lord Somers, Priestley. To prove that the case is the same with states, till they surrender their equal sovereignty, he read other passages in Locke, and Vattel, and also Rutherford: that the states, being equal, cannot treat or confederate so as to give up an inequality of votes, without giving up their liberty: that the propositions on the table were a system of slavery for ten states: that as Virginia, Massachusetts, and Pennsylvania, have forty-two ninetieths of the votes, they can do as they please, without a miraculous union of the other ten: that they will have nothing to do but to gain over one of the ten, to make them complete masters of the rest: that they can then appoint an executive, and judiciary, and legislature, for them, as they please: that there was, and would continue, a natural predilection and partiality in men for their own states: that the states, particularly the smaller, would never allow a negative to be exercised over their laws: that no state, in ratifying the Confederation, had objected to the equality of votes: that the complaints at present ran not against this equality, but the want of power: that sixteen members from Virginia would be more likely to act in concert than a like number formed of members from different states: that, instead of a junction of the small states as a remedy, he thought a division of the large states

would be more eligible. This was the substance of a speech which was continued more than three hours. He was too much exhausted, he said, to finish his remarks, and reminded the House that he should tomorrow resume them.

Adjourned.

THURSDAY, *June* 28.

In Convention.—Mr. L. MARTIN resumed his discourse, contending that the general government ought to be formed for the states, not for individuals: that if the states were to have votes in proportion to their numbers of people, it would be the same thing whether their representatives were chosen by the legislatures or the people; the smaller states would be equally enslaved: that if the large states have the same interest with the smaller, as was urged, there could be no danger in giving them an equal vote: they would not injure themselves, and they could not injure the large ones, on that supposition, without injuring themselves; and if the interests were not the same, the inequality of suffrage would be dangerous to the smaller states: that it will be in vain to propose any plan offensive to the rulers of the states, whose influence over the people will certainly prevent their adopting it: that the large states were weak at present in proportion to their extent, and could only be made formidable to the small ones by the weight of their votes: that, in case a dissolution of the Union should take place, the small states would have nothing to fear from their power: that if, in such a case, the three great states should league themselves together, the other ten could do so too; and that he had rather see partial confederacies take place than the plan on the table. This was the substance of the residue of his discourse, which was delivered with much diffuseness, and considerable vehemence.

Mr. LANSING and Mr. DAYTON moved to strike out "not," so that the seventh article might read, "that the right of suffrage in the first branch ought to be according to the rule established by the Confederation."

Mr. DAYTON expressed great anxiety that the question might not be put till to-morrow, Governor Livingston being kept away by indisposition, and the representation of New Jersey thereby suspended.

Mr. WILLIAMSON thought that, if any political truth could be grounded on mathematical demonstration, it was, that if the states were equally sovereign now, and parted with equal proportions of sovereignty, that they would remain equally sovereign. He could not comprehend how the smaller states would be injured in the case, and wished

some gentleman would vouchsafe a solution of it. He observed that the small states, if they had a plurality of votes, would have an interest in throwing the burdens off their own shoulders on those of the large ones. He begged that the expected addition of new states from the westward might be taken into view. They would be small states; they would be poor states; they would be unable to pay in proportion to their numbers, their distance from market rendering the produce of their labor less valuable; they would consequently be tempted to combine for the purpose of laying burdens on commerce and consumption, which would fall with greater weight on the old states.

Mr. MADISON said, he was much disposed to concur in any expedient, not inconsistent with fundamental principles, that could remove the difficulty concerning the rule of representation. But he could neither be convinced that the rule contended for was just, nor that it was necessary for the safety of the small states against the large states. That it was not just, had been conceded by Mr. Brearley and Mr. Patterson themselves. The expedient proposed by them was a new partition of the territory of the United States. The fallacy of the reasoning drawn from the equality of sovereign states, in the formation of compacts, lay in confounding mere treaties, in which were specified certain duties to which the parties were to be bound, and certain rules by which their subjects were to be reciprocally governed in their intercourse, with a compact by which an authority was created paramount to the parties, and making laws for the government of them. If France, England, and Spain, were to enter into a treaty for the regulation of commerce, &c., with the Prince of Monacho, and four or five other of the smallest sovereigns of Europe, they would not hesitate to treat as equals, and to make the regulations perfectly reciprocal. Would the case be the same, if a council were to be formed of deputies from each, with authority and discretion to raise money, levy troops, determine the value of coin, &c.? Would thirty or forty millions of people submit their fortunes into the hands of a few thousands? If they did, it would only prove that they expected more from the terror of their superior force, than they feared from the selfishness of their feeble associates. Why are counties of the same states represented in proportion to their numbers? Is it because the representatives are chosen by the people themselves? So will be the representatives in the national legislature. Is it because the larger have more at stake than the smaller? The case will be the same with the larger and smaller states. Is it because the laws are to operate immediately on their persons and properties?

The same is the case, in some degree, as the Articles of Confederation stand; the same will be the case, in a far greater degree, under the plan proposed to be substituted. In the cases of captures, of piracies, and of offences in a federal army, the property and persons of individuals depend on the laws of Congress. By the plan proposed, a complete power of taxation—the highest prerogative of supremacy—is proposed to be vested in the national government. Many other powers are added, which assimilate it to the government of individual states. The negative proposed on the state laws will make it an essential branch of the state legislatures, and of course will require that it should be exercised by a body established on like principles with the branches of those legislatures. That it is not necessary to secure the small states against the large ones, he conceived to be equally obvious. Was a combination of the large ones dreaded? This must arise either from some interest common to Virginia, Massachusetts, and Pennsylvania, and distinguishing them from the other states; or from the mere circumstance of similarity of size. Did any such common interest exist? In point of situation, they could not have been more effectually separated from each other by the most jealous citizen of the most jealous states. In point of manners, religion, and the other circumstances which sometimes beget affection between different communities, they were not more assimilated that the other states. In point of the staple productions, they were as dissimilar as any three other states in the Union. The staple of Massachusetts was fish, of Pennsylvania flour, of Virginia tobacco. Was a combination to be apprehended from the mere circumstance of equality of size? Experience suggested no such danger. The Journals of Congress did not present any peculiar association of these states in the votes recorded. It had never been seen that different counties in the same state, conformable in extent, but disagreeing in other circumstances, betrayed a propensity to such combinations. Experience rather taught a contrary lesson. Among individuals of superior eminence and weight in society, rivalships were much more frequent than coalitions. Among independent nations, pre-eminent over their neighbors, the same remark was verified. Carthage and Rome tore one another to pieces, instead of uniting their forces to devour the weaker nations of the earth. The houses of Austria and France were hostile as long as they remained the greatest powers of Europe. England and France have succeeded to the pre-eminence and to the enmity. To this principle we owe perhaps our liberty. A coalition between those powers would have been fatal to us. Among the principal members of ancient

and modern confederacies, we find the same effect from the same cause. The contentions, not the coalitions, of Sparta, Athens, and Thebes, proved fatal to the smaller members of the Amphictyonic confederacy. The contentions, not the combinations, of Russia and Austria, have distracted and oppressed the German Empire. Were the large states formidable, singly, to their smaller neighbors? On this supposition, the latter ought to wish for such a general government as will operate with equal energy on the former as on themselves. The more lax the band, the more liberty the larger will have to avail themselves of their superior force. Here, again, experience was an instructive monitor. What is the situation of the weak, compared with the strong, in those stages of civilization in which the violence of individuals is least controlled by an efficient government? The heroic period of ancient Greece, the feudal licentiousness of the middle ages of Europe, the existing condition of the American savages, answer this question. What is the situation of the minor sovereigns in the great society of independent nations, in which the more powerful are under no control but the nominal authority of the law of nations? Is not the danger to the former exactly in proportion to their weakness? But there are cases still more in point. What was the condition of the weaker members of the Amphictyonic confederacy? Plutarch (see Life of Themistocles) will inform us, that it happened but too often, that the strongest cities corrupted and awed the weaker, and that judgment went in favor of the more powerful party. What is the condition of the lesser states in the German confederacy? We all know that they are exceedingly trampled upon, and that they owe their safety, as far as they enjoy it, partly to their enlisting themselves under the rival banners of the preeminent members, partly to alliances with neighboring princes, which the constitution of the empire does not prohibit. What is the state of things in the lax system of the Dutch confederacy? Holland contains about half the people, supplies about half the money, and by her influence silently and indirectly governs the whole republic. In a word, the two extremes before us are, a perfect separation, and a perfect incorporation of the thirteen states. In the first case, they would be independent nations, subject to no law but the law of nations. In the last, they would be mere counties of one entire republic, subject to one common law. In the first case, the smaller states would have every thing to fear from the larger. In the last, they would have nothing to fear. The true policy of the small states, therefore, lies in promoting those principles, and that form of government, which will most

approximate the states to the condition of counties. Another consideration may be added. If the general government be feeble, the larger states, distrusting its continuance, and foreseeing that their importance and security may depend on their own size and strength, will never submit to a partition. Give to the general government sufficient energy and permanency, and you remove the objection. Gradual partitions of the large, and junctions of the small states, will be facilitated, and time may effect that equalization which is wished for by the small states now, but can never be accomplished at once.

Mr. WILSON. The leading argument of those who contend for equality of votes among the states, is, that the states, as such, being equal, and being represented, not as districts of individuals, but in their political and corporate capacities, are entitled to an equality of suffrage. According to this mode of reasoning, the representation of the boroughs in England, which has been allowed on all hands to be the rotten part of the constitution, is perfectly right and proper. They are, like the states, represented in their corporate capacity; like the states, therefore, they are entitled to equal voices—Old Sarum to as many as London. And instead of the injury supposed hitherto to be done to London, the true ground of complaint lies with Old Sarum: for London, instead of two, which is her proper share, sends four representatives to Parliament.

Mr. SHERMAN. The question is, not what rights naturally belong to man, but how they may be most equally and effectually guarded in society. And if some give up more than others, in order to obtain this end, there can be no room for complaint. To do otherwise, to require an equal concession from all, if it would create danger to the rights of some, would be sacrificing the end to the means. The rich man who enters into society along with the poor man gives up more than the poor man, yet, with an equal vote, he is equally safe. Were he to have more votes than the poor man, in proportion to his superior stake, the rights of the poor man would immediately cease to be secure. This consideration prevailed when the Articles of Confederation were formed.

The determination of the question, for striking out the word "not," was put off till to-morrow, at the request of the deputies from New York.

Dr. FRANKLIN. Mr. President, the small progress we have made after four or five weeks' close attendance and continual reasonings with each other—our different sentiments on almost every ques-

tion, several of the last producing as many noes as ayes—is, methinks, a melancholy proof of the imperfection of the human understanding. We indeed seem to feel our own want of political wisdom, since we have been running about in search of it. We have gone back to ancient history for models of government, and examined the different forms of those republics which, having been formed with the seeds of their own dissolution, now no longer exist. And we have viewed modern states all around Europe, but find none of their constitutions suitable to our circumstances.

In this situation of this assembly, groping, as it were, in the dark, to find political truth, and scarce able to distinguish it when presented to us, how has it happened, sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? In the beginning of the contest with Great Britain, when we were sensible of danger, we had daily prayer in this room for the divine protection. Our prayers, sir, were heard, and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a superintending Providence in our favor. To that kind Providence we owe this happy opportunity of consulting in peace on the means of establishing our future national felicity. And have we now forgotten that powerful Friend? Or do we imagine that we no longer need his assistance? I have lived, sir, a long time, and, the longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, sir, in the sacred writings, that "except the Lord build the house, they labor in vain that build it." I firmly believe this; and I also believe that without his concurring aid we shall succeed, in this political building, no better than the builders of Babel. We shall be divided by our little partial local interests; our projects will be confounded; and we ourselves shall become a reproach and by-word down to future ages. And, what is worse, mankind may hereafter, from this unfortunate instance, despair of establishing governments by human wisdom, and leave it to chance, war, and conquest.

I therefore beg leave to move that, henceforth, prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this assembly every morning before we proceed to business, and that one or more of the clergy of this city be requested to officiate in that service.

Mr. SHERMAN seconded the motion.

Mr. HAMILTON and several others expressed their apprehensions that, however proper such a resolution might have been at the beginning of the Convention, it might at this late day, in the first place, bring on it some disagreeable animadversions; and, in the second, lead the public to believe that the embarrassments and dissensions within the Convention had suggested this measure. It was answered, by Dr. FRANKLIN, Mr. SHERMAN, and others, that the past omission of a duty could not justify a further omission; that the rejection of such a proposition would expose the Convention to more unpleasant animadversions than the adoption of it; and that the alarm out of doors, that might be excited for the state of things within, would at least be as likely to do good as ill.

Mr. WILLIAMSON observed, that the true cause of the omission could not be mistaken. The Convention had no funds.

Mr. RANDOLPH proposed, in order to give a favorable aspect to the measure, that a sermon be preached at the request of the Convention on the Fourth of July, the anniversary of Independence; and thenceforward prayers, &c., to be read in the Convention every morning. Dr. FRANKLIN seconded this motion. After several unsuccessful attempts for silently postponing this matter by adjourning, the adjournment was at length carried, without any vote on the motion.

FRIDAY, *June* 29.

In Convention.—Dr. JOHNSON. The controversy must be endless whilst gentlemen differ in the grounds of their arguments: those on one side considering the states as districts of people composing one political society, those on the other considering them as so many political societies. The fact is, that the states do exist as political societies, and a government is to be formed for them in their political capacity, as well as for the individuals composing them. Does it not seem to follow, that if the states, as such, are to exist, they must be armed with some power of self-defense? This is the idea of Col. Mason, who appears to have looked to the bottom of this matter. Besides the aristocratic and other interests, which ought to have the means of defending themselves, the states have their interests as such, and are equally entitled to like means. On the whole, he thought that as, in some respects, the states are to be considered in their political capacity, and, in others, as districts of individual citizens, the two ideas embraced on different sides, instead of being opposed to each other, ought to be combined—that in one branch the people ought to be represented, in the other, the states.

Mr. GORHAM. The states, as now confederated, have no doubt a right to refuse to be consolidated, or to be formed into any new system. But he wished the small states, which seemed most ready to object, to consider which are to give up most, they or the larger ones. He conceived that a rupture of the Union would be an event unhappy for all; but surely the large states would be least unable to take care of themselves, and to make connections with one another. The weak, therefore, were most interested in establishing some general system for maintaining order. If, among individuals composed partly of weak and partly of strong, the former most need the protection of law and government, the case is exactly the same with weak and powerful states. What would be the situation of Delaware, (for these things, he found, must be spoken out, and it might as well be done at first as last,) what would be the situation of Delaware in case of a separation of the states? Would she not be at the mercy of Pennsylvania? Would not her true interest lie in being consolidated with her, and ought she not now to wish for such a union with Pennsylvania, under one government, as will put it out of the power of Pennsylvania to oppress her? Nothing can be more ideal than the danger apprehended by the states from their being formed into one nation. Massachusetts was originally three colonies, viz., old Massachusetts, Plymouth, and the Province of Maine. These apprehensions existed then. An incorporation took place, all parties were safe and satisfied, and every distinction is now forgotten. The case was similar with Connecticut and New Haven. The dread of union was reciprocal; the consequence of it equally salutary and satisfactory. In like manner, New Jersey has been made one society out of two parts. Should a separation of the states take place, the fate of New Jersey would be worst of all. She has no foreign commerce, and can have but little. Pennsylvania and New York will continue to levy taxes on her consumption. If she consults her interest, she would beg of all things to be annihilated. The apprehensions of the small states ought to be appeased by another reflection. Massachusetts will be divided. The province of Maine is already considered as approaching the term of its annexation to it; and Pennsylvania will probably not increase, considering the present state of her population, and other events that may happen. On the whole, he considered a union of the states as necessary to their happiness, and a firm general government as necessary to their union. He should consider it his duty, if his colleagues viewed the matter in the same light he did, to stay here as long as any other state would remain with them, in order to agree on some plan that could, with propriety, be recommended to the people.

Mr. ELLSWORTH did not despair. He still trusted that some good plan of government would be devised and adopted.

Mr. READ. He should have no objection to the system if it were truly national, but it has too much of a federal mixture in it. The little states, he thought, had not much to fear. He suspected that the large states felt their want of energy, and wished for a general government to supply the defect. Massachusetts was evidently laboring under her weakness, and he believed Delaware would not be in much danger if in her neighborhood. Delaware had enjoyed tranquility, and he flattered himself would continue to do so. He was not, however, so selfish as not to wish for a good general government. In order to obtain one, the whole states must be incorporated. If the states remain, the representatives of the large ones will stick together, and carry every thing before them. The executive, also, will be chosen under the influence of this partiality, and will betray it in his administration. These jealousies are inseparable from the scheme of leaving the states in existence. They must be done away. The ungranted lands, also, which have been assumed by particular states, must be given up. He repeated his approbation of the plan of Mr. Hamilton, and wished it to be substituted for that on the table.

Mr. MADISON agreed with Dr. Johnson, that the mixed nature of the government ought to be kept in view, but thought too much stress was laid on the rank of the states as political societies. There was a gradation, he observed, from the smallest corporation, with the most limited powers, to the largest empire, with the most perfect sovereignty. He pointed out the limitations on the sovereignty of the states, as now confederated. Their laws, in relation to the paramount law of the Confederacy, were analagous to that of by-laws to the supreme law within a state. Under the proposed government, the powers of the states will be much further reduced. According to the views of every member, the general government will have powers far beyond those exercised by the British Parliament when the states were part of the British empire. It will, in particular, have the power, without the consent of the state legislatures, to levy money directly from the people themselves, and, therefore, not to divest such unequal portions of the people as composed the several states of an equal voice, would subject the system to the reproaches and evils which have resulted from the vicious representation in Great Britain.

He entreated the gentlemen representing the small states to renounce a principle which was confessedly unjust, which could never

be admitted, and which, if admitted, must infuse mortality into a Constitution which we wished to last forever. He prayed them to ponder well the consequences of suffering the Confederacy to go to pieces. It had been said that the want of energy in the large states would be a security to the small. It was forgotten that this want of energy proceeded from the supposed security of the states against all external danger. Let each state depend on itself for its security, and let apprehensions arise of danger from distant powers or from neighboring states, and the languishing condition of all the states, large as well as small, would soon be transformed into vigorous and high-toned governments. His great fear was, that their governments would then have too much energy; that this might not only be formidable in the large to the small states, but fatal to the internal liberty of all. The same causes which have rendered the old world the theatre of incessant wars, and have banished liberty from the face of it, would soon produce the same effects here. The weakness and jealousy of the small states would quickly introduce some regular military force, against sudden danger from their powerful neighbors. The example would be followed by others, and would soon become universal. In time of actual war, great discretionary powers are constantly given to the executive magistrate. Constant apprehension of war has the same tendency to render the head too large for the body. A standing military force, with an overgrown executive, will not long be safe companions to liberty. The means of defence against foreign danger have been always the instruments of tyranny at home. Among the Romans it was a standing maxim, to excite a war whenever a revolt was apprehended. Throughout all Europe, the armies kept up under the pretext of defending, have enslaved, the people. It is, perhaps, questionable, whether the best-concerted system of absolute power in Europe could maintain itself, in a situation where no alarms of external danger could tame the people to the domestic yoke. The insular situation of Great Britain was the principal cause of her being an exception to the general fate of Europe. It has rendered less defence necessary, and admitted a kind of defence which could not be used for the purpose of oppression. These consequences, he conceived, ought to be apprehended, whether the states should run into a total separation from each other, or should enter into partial confederacies. Either event would be truly deplorable, and those who might be accessory to either could never be forgiven by their country, nor by themselves.

Mr. HAMILTON observed, that individuals forming political so-

cieties modify their rights differently, with regard to suffrage. Examples of it are found in all the states. In all of them some individuals are deprived of the right altogether, not having the requisite qualification of property. In some of the states, the right of suffrage is allowed in some cases and refused in others. To vote for a member in one branch, a certain quantum of property—to vote for a member in another branch of the legislature, a higher quantum of property, is required. In like manner, states may modify their right of suffrage differently, the larger exercising a larger, the smaller a smaller, share of it. But as states are a collection of individual men, which ought we to respect most, the rights of the people composing them, or of the artificial beings resulting from the composition? Nothing could be more preposterous or absurd than to sacrifice the former to the latter. It has been said that, if the smaller states renounce their equality, they renounce, at the same time, their liberty. The truth is, it is a contest for power, not for liberty. Will the men composing the small states be less free than those composing the larger? The state of Delaware, having forty thousand souls, will lose power, if she has one-tenth only of the votes allowed to Pennsylvania, having four hundred thousand; but will the people of Delaware be less free, if each citizen has an equal vote with each citizen of Pennsylvania? He admitted that common residence within the same state would produce a certain degree of attachment, and that this principle might have a certain influence on public affairs. He thought, however, that this might, by some precautions, be in a great measure excluded, and that no material inconvenience could result from it, as there could not be any ground for combination among the states whose influence was most dreaded. The only considerable distinction of interests lay between the carrying and non-carrying states—which divides, instead of uniting, the largest states. No considerable inconvenience had been found from the division of the state of New York into different districts of different sizes.

Some of the consequences of a dissolution of the Union, and the establishment of partial confederacies, had been pointed out. He would add another of a most serious nature. Alliances will immediately be formed with different rival and hostile nations of Europe, who will foment disturbances among ourselves, and make us parties to all their own quarrels. Foreign nations having American dominions, are, and must be, jealous of us. Their representatives betray the utmost anxiety for our fate; and for the result of this meeting, which must have an essential influence on it. It had been said, that respectability in the

eyes of foreign nations was not the object at which we aimed; that the proper object of republican government was domestic tranquility and happiness. This was an ideal distinction. No government could give us tranquility and happiness at home, which did not possess sufficient stability and strength to make us respectable abroad. This was the critical moment for forming such a government. We should run every risk in trusting to future amendments. As yet we retain the habits of union. We are weak, and sensible of our weakness. Henceforward, the motives will become feebler, and the difficulties greater. It is a miracle that we are now here, exercising our tranquil and free deliberations on the subject. It would be madness to trust to future miracles. A thousand causes must obstruct a reproduction of them.

Mr. PIERCE considered the equality of votes under the Confederation as the great source of the public difficulties. The members of Congress were advocates for local advantages. State distinctions must be sacrificed as far as the general good required, but without destroying the states. Though from a small state, he felt himself a citizen of the United States.

Mr. GERRY urged, that we never were independent states, were not such now, and never could be, even on the principles of the Confederation. The states, and the advocates for them, were intoxicated with the idea of their sovereignty. He was a member of Congress at the time the Federal Articles were formed. The injustice of allowing each state an equal vote was long insisted on. He voted for it, but it was against his judgment, and under the pressure of public danger, and the obstinacy of the lesser states. The present Confederation he considered as dissolving. The fate of the Union will be decided by the Convention. If they do not agree on something, few delegates will probably be appointed to Congress. If they do, Congress will probably be kept up till the new system should be adopted. He lamented that, instead of coming here like a band of brothers, belonging to the same family, we seemed to have brought with us the spirit of political negotiators.

Mr. L. MARTIN remarked, that the language of the states being sovereign and independent, was once familiar and understood; though it seemed now so strange and obscure. He read those passages in the Articles of Confederation which describe them in that language.

On the question, as moved by Mr. Lansing, shall the word "not" be struck out,—

Connecticut, New York, New Jersey, Delaware, ay, 4; Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, no, 6; Maryland, divided.

On the motion to agree to the clause as reported, "that the rule of suffrage in the first branch ought not to be according to that established by the Articles of Confederation."—

Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, ay, 6; Connecticut, New York, New Jersey, Delaware, no, 4; Maryland, divided.

Dr. JOHNSON and Mr. ELLSWORTH moved to postpone the residue of the clause, and take up the eighth resolution.

On the question,—

Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, ay, 9; Massachusetts, Delaware, no, 2.

Mr. ELLSWORTH moved, "that the rule of suffrage in the second branch be the same with that established by the Articles of Confederation." He was not sorry, on the whole, he said, that the vote just passed had determined against this rule in the first branch. He hoped it would become a ground of compromise with regard to the second branch. We were partly national, partly federal. The proportional representation in the first branch was conformable to the national principle, and would secure the large states against the small. An equality of voices was conformable to the federal principle, and was necessary to secure the small states against the large. He trusted that on this middle ground a compromise would take place. He did not see that it could on any other, and if no compromise should take place, our meeting would not only be in vain, but worse than in vain. To the eastward, he was sure Massachusetts was the only state that would listen to a proposition for excluding the states, as equal political societies, from an equal voice in both branches. The others would risk every consequence rather than part with so dear a right. An attempt to deprive them of it was at once cutting the body of America in two, and, as he supposed would be the case, somewhere about this part of it. The large states, he conceived, would, notwithstanding the equality of votes, have an influence that would maintain their superiority. Holland, as had been admitted, (by Mr. Madison,) had, notwithstanding a like equality in the Dutch confederacy, a prevailing influence in the public measures. The power of self-defence was essential to the small states. Nature had given it to the smallest insect of the creation. He

could never admit that there was no danger of combinations among the large states. They will, like individuals, find out and avail themselves of the advantage to be gained by it. It was true the danger would be greater if they were contiguous, and had a more immediate and common interest. A defensive combination of the small states was rendered more difficult by their greater number. He would mention another consideration of great weight. The existing Confederation was founded on the equality of the states in the article of suffrage,—was it meant to pay no regard to this antecedent plighted faith? Let a strong executive, a judiciary, and legislative power, be created, but let not too much be attempted, by which all may be lost. He was not in general a half-way man, yet he preferred doing half the good we could, rather than do nothing at all. The other half may be added when the necessity shall be more fully experienced.

Mr. BALDWIN could have wished that the powers of the general legislature had been defined, before the mode of constituting it had been agitated. He should vote against the motion of Mr. Ellsworth, though he did not like the resolution as it stood in the report of the Committee of the Whole. He thought the second branch ought to be the representation of property, and that, in forming it, therefore, some reference ought to be had to the relative wealth of their constituents, and to the principles on which the senate of Massachusetts was constituted. He concurred with those who thought it would be impossible for the general legislature to extend its cares to the local matters of the states.

Adjourned.

SATURDAY, *June* 30.

In Convention.—Mr. BREARLY moved that the president write to the executive of New Hampshire, informing it that the business depending before the Convention was of such a nature as to require the immediate attendance of the deputies of that state. In support of his motion, he observed, that the difficulties of the subject, and the diversity of opinions, called for all the assistance we could possibly obtain. (It was well understood that the object was to add New Hampshire to the number of states opposed to the doctrine of proportional representation, which it was presumed, from her relative size, she must be adverse to.)

Mr. PATTERSON seconded the motion.

Mr. RUTLEDGE could see neither the necessity nor propriety of

such a measure. They are not unapprized of the meeting, and can attend if they choose. Rhode Island might as well be urged to appoint and send deputies. Are we to suspend the business until the deputies arrive? If we proceed, he hoped all the great points would be adjusted before the letter could produce its effect.

Mr. KING said he had written more than once as a private correspondent, and the answer gave him every reason to expect that state would be represented very shortly, if it should be so at all. Circumstances of a personal nature had hitherto prevented it. A letter could have no effect.

Mr. WILSON wished to know, whether it would be consistent with the rule of reason or secrecy, to communicate to New Hampshire that the business was of such a nature as the motion described. It would spread great alarm. Besides, he doubted the propriety of soliciting any state on the subject, the meeting being merely voluntary.

On motion of Mr. Brearly,

New York, New Jersey, ay, 2; Massachusetts, Connecticut, Virginia, North Carolina, South Carolina, no, 5; Maryland, divided. Pennsylvania, Delaware, Georgia, not on the floor.

The motion of Mr. Ellsworth being resumed, for allowing each state an equal vote in the second branch,—

Mr. WILSON did not expect such a motion after the establishment of the contrary principle in the first branch; and considering the reasons which would oppose it, even if an equal vote had been allowed in the first branch. The gentleman from Connecticut (Mr. Ellsworth) had pronounced, that, if the motion should not be acceded to, of all the states north of Pennsylvania, one only would agree to any general government. He entertained more favorable hopes of Connecticut and of the other Northern States. He hoped the alarms exceeded their cause, and that they would not abandon a country to which they were bound by so many strong and endearing ties. But should the deplored event happen, it would neither stagger his sentiments nor his duty. If the minority of the people of America refuse to coalesce with the majority on just and proper principles, if a separation must take place, it could never happen on better grounds. The votes of yesterday against the just principle of representation were as twenty-two to ninety of the people of America. Taking the opinions to be the same on this point,—and he was sure, if there was any room for change, it could not be on the side of the majority,—the question will be, Shall less than

one-fourth of the United States withdraw themselves from the Union, or shall more than three-fourths renounce the inherent, indisputable, and unalienable rights of men, in favor of the artificial system of states? If issue must be joined, it was on this point he would choose to join it. The gentleman from Connecticut, in supposing that the preponderance secured to the majority in the first branch had removed the objections to an equality of votes in the second branch, for the security of the minority, narrowed the case extremely. Such an equality will enable the minority to control, in all cases whatsoever, the sentiments and interests of the majority. Seven states will control six; seven states, according to the estimates that had been used, composed twenty-four ninetieths of the whole people. It would be in the power, then, of less than one-third to overrule two-thirds, whenever a question should happen to divide the states in that manner. Can we forget for whom we are forming a government? Is it for men, or for the imaginary beings called states? Will our honest constituents be satisfied with metaphysical distinctions? Will they, ought they to, be satisfied with being told, that the one-third compose the greater number of states? The rule of suffrage ought on every principle to be the same in the second as in the first branch. If the government be not laid on this foundation, it can be neither solid nor lasting. Any other principle will be local, confined and temporary. This will expand with the expansion, and grow with the growth, of the United States. Much has been said of an imaginary combination of three states. Sometimes a danger of monarchy, sometimes of aristocracy, has been charged on it. No explanation, however, of the danger has been vouchsafed. It would be easy to prove, both from reason and history, that rivalships would be more probable than coalitions; and that there are no coinciding interests that could produce the latter. No answer has yet been given to the observations of Mr. Madison on this subject. Should the executive magistrate be taken from one of the large states, would not the other two be thereby thrown into the scale with the other states? Whence, then, the danger of monarchy? Are the people of the three large states more aristocratic than those of the small ones? Whence, then, the danger of aristocracy from their influence? It is all a mere illusion of names. We talk of states, till we forget what they are composed of. Is a real and fair majority the natural hotbed of aristocracy? It is a part of the definition of this species of government, or rather of tyranny, that the smaller number governs the greater. It is true that a majority of states

in the second branch cannot carry a law against a majority of the people in the first. But this removes half only of the objection. Bad governments are of two sorts,—first, that which does too little; secondly, that which does too much; that which fails through weakness, and that which destroys through oppression. Under which of these evils do the United States at present groan? Under the weakness and inefficiency of its government. To remedy this weakness we have been sent to this Convention. If the motion should be agreed to, we shall leave the United States fettered precisely as heretofore; with the additional mortification of seeing the good purposes of the fair representation of the people, in the first branch, defeated in the second. Twenty-four will still control sixty-six. He lamented that such a disagreement should prevail on the point of representation; as he did not foresee that it would happen on the other point most contested, the boundary between the general and the local authorities. He thought the states necessary and valuable parts of a good system.

Mr. ELLSWORTH. The capital objection of Mr. Wilson, "that the minority will rule the majority," is not true. The power is given to the few to save them from being destroyed by the many. If an equality of votes had been given to them in both branches, the objection might have had weight. Is it a novel thing that the few should have a check on the many? Is it not the case in the British constitution, the wisdom of which so many gentlemen have united in applauding? Have not the House of Lords, who form so small a proportion of the nation, a negative on the laws, as a necessary defence of their peculiar rights against the encroachments of the commons? No instance of a confederacy has existed in which an equality of voices has not been exercised by the members of it. We are running from one extreme to another. We are razing the foundations of the building, when we need only repair the roof. No salutary measures has been lost for want of a majority of the states to favor it. If security be all that the great states wish for, the first branch secures them. The danger of combinations among them is not imaginary. Although no particular abuses could be foreseen by him, the possibility of them would be sufficient to alarm him. But he could easily conceive cases in which they might result from such combinations. Suppose that, in pursuance of some commercial treaty or arrangement, three or four free ports, and no more, were to be established, would not combinations be formed in favor of Boston, Philadelphia, and some port of the Chesapeake? A

like concert might be formed in the appointment of the great offices. He appealed again to the obligations of the federal pact, which was still in force, and which had been entered into with so much solemnity; persuading himself that some regard would still be paid to the plighted faith under which each state, small as well as great, held an equal right of suffrage in the general councils. His remarks were not the result of partial or local views. The state he represented (Connecticut) held a middle rank.

Mr. MADISON did justice to the able and close reasoning of Mr. Ellsworth, but must observe that it did not always accord with itself. On another occasion, the large states were described by him as the aristocratic states, ready to oppress the small. Now, the small are the House of Lords, requiring a negative to defend them against the more numerous Commons. Mr. Ellsworth had also erred in saying that no instance had existed in which confederated states had not retained to themselves a perfect equality of suffrage. Passing over the German system, in which the king of Prussia has nine voices, he reminded Mr. Ellsworth of the Lycian confederacy, in which the component members had votes proportioned to their importance, and which Montesquieu recommends as the fittest model for that form of government. Had the fact been as stated by Mr. Ellsworth, it would have been of little avail to him, or rather would have strengthened the arguments against him; the history and fate of the several confederacies, modern as well as ancient, demonstrating some radical vice in their structure. In reply to the appeal of Mr. Ellsworth to the faith plighted in the existing federal compact, he remarked, that the party claiming from others an adherence to a common engagement ought at least to be guiltless itself of a violation. Of all the states, however, Connecticut was perhaps least able to urge this plea. Besides the various omissions to perform the stipulated acts, from which no state was free, the legislature of that state had, by a pretty recent vote, positively refused to pass a law for complying with the requisitions of Congress, and had transmitted a copy of the vote to Congress. It was urged, he said, continually, that an equality of votes in the second branch was not only necessary to secure the small, but would be perfectly safe to the large ones, whose majority in the first branch was an effectual bulwark. But, notwithstanding this apparent defence the majority of states might still injure the majority of the people. In the first place, they could obstruct the wishes and interests of the majority. Secondly, they could extort measures repugnant to

the wishes and interest of the majority. Thirdly, they could impose measures adverse thereto; as the second branch will probably exercise some great powers, in which the first will not participate. He admitted that every peculiar interest, whether in any class of citizens, or any description of states, ought to be secured as far as possible. Wherever there is danger of attack, there ought to be given a constitutional power of defence. But he contended that the states were divided into different interests, not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from the effects of their having, or not having, slaves. These two causes concurred in forming the great division of interests in the United States. It did not lie between the large and small states. It lay between the northern and southern; and if any defensive power were necessary, it ought to be mutually given to these two interests. He was so strongly impressed with this important truth, that he had been casting about in his mind for some expedient that would answer the purpose. The one which had occurred was, that, instead of proportioning the votes of the states, in both branches, to their respective numbers of inhabitants, computing the slaves in the ratio of five to three, they should be represented in one branch according to the number of free inhabitants only; and in the other, according to the whole number, counting the slaves as free. By this arrangement the southern scale would have the advantage in one House, and the northern in the other. He had been restrained from proposing this expedient by two considerations; one was his unwillingness to urge any diversity of interests on an occasion where it is but too apt to arise of itself; the other was the inequality of powers that must be vested in the two branches, and which would destroy the equilibrium of interests.

Mr. ELLSWORTH assured the House, that, whatever might be thought of the representatives of Connecticut, the state was entirely federal in her disposition. He appealed to her great exertions, during the war, in supplying both men and money. The muster-rolls would show she had more troops in the field than Virginia. If she had been delinquent, it had been from inability, and not more so than other states.

Mr. SHERMAN. Mr. Madison animadverted on the delinquency of the states, when his object required him to prove that the constitution of Congress was faulty. Congress is not to blame for the faults of the states. Their measures have been right, and the only thing wanting has been a further power in Congress to render them effectual.

Mr. DAVIE was much embarrassed, and wished for explanations. The report of the committee, allowing the legislatures to choose the Senate, and establishing a proportional representation in it, seemed to be impracticable. There will, according to this rule, be ninety members in the outset, and the number will increase as new states are added. It was impossible that so numerous a body could possess the activity and other qualities required in it. Were he to vote on the comparative merits of the report, as it stood, and the amendment, he should be constrained to prefer the latter. The appointment of the Senate by electors, chosen by the people for that purpose, was, he conceived, liable to an insuperable difficulty. The larger counties or districts, thrown into a general district, would certainly prevail over the smaller counties or districts, and merit in the latter would be excluded altogether. The report, therefore, seemed to be right in referring the appointment to the legislatures, whose agency in the general system did not appear to him objectionable, as it did to some others. The fact was, that the local prejudices and interests, which could not be denied to exist, would find their way into the national councils, whether the representatives should be chosen by the legislatures or by the people themselves. On the other hand, if a proportional representation was attended with insuperable difficulties, the making the Senate the representative of the states looked like bringing us back to Congress again, and shutting out all the advantages expected from it. Under this view of the subject, he could not vote for any plan for the Senate yet proposed. He thought that, in general, there were extremes on both sides. We were partly federal, partly national, in our union; and he did not see why the government might not in some respects operate on the states, in others on the people.

Mr. WILSON admitted the question concerning the number of senators to be embarrassing. If the smallest states be allowed one, and the others in proportion, the Senate will certainly be too numerous. He looked forward to the time when the smallest states will contain a hundred thousand souls at least. Let there be then one senator in each, for every hundred thousand souls, and let the states not having that number of inhabitants be allowed one. He was willing himself to submit to this temporary concession to the small states; and threw out the idea as a ground of compromise.

Dr. FRANKLIN. The diversity of opinions turns on two points. If a proportional representation takes place, the small states contend

that their liberties will be in danger. If an equality of votes is to be put in its place, the large states say their money will be in danger. When a broad table is to be made, and the edges of planks do not fit, the artist takes a little from both, and makes a good joint. In like manner, here, both sides must part with some of their demands, in order that they may join in some accommodating proposition. He had prepared one, which he would read, that it might lie on the table for consideration. The proposition was in the words following:

"That the legislatures of the several states shall choose and send an equal number of delegates, namely, ———, who are to compose the second branch of the general legislature.

"That in all cases or questions wherein the sovereignty of individual states may be affected, or whereby their authority over their own citizens may be diminished, or the authority of the general government within the several states augmented, each state shall have equal suffrage.

"That in the appointment of all civil officers of the general government, in the election of whom the second branch may by the constitution have part, each state shall have equal suffrage.

"That in fixing the salaries of such officers, and in all allowances for public services, and generally in all appropriations and dispositions of money to be drawn out of the general treasury, and in all laws for supplying that treasury, the delegates of the several states shall have suffrage in proportion to the sums which their respective states do actually contribute to the treasury."

Where a ship had many owners, this was the rule of deciding on her expedition. He had been one of the ministers from this country to France during the joint war, and would have been very glad if allowed a vote in distributing the money to carry it on.

Mr. KING observed, that the simple question was, whether each state should have an equal vote in the second branch: that it must be apparent to those gentlemen who liked neither the motion for this equality, nor the report as it stood, that the report was as susceptible of melioration as the motion: that a reform would be nugatory and nominal only, if we should make another Congress of the proposed Senate: that if the adherence to an equality of votes was fixed and unalterable, there could not be less obstinacy on the other side; and that we were in fact cut asunder already, and it was in vain to shut our eyes against it: that he was, however, filled with astonishment, that, if we were convinced that every man in America was secured in all his rights, we should be ready to sacrifice this substantial good to the phantom of state sovereignty: that his feelings were more harrowed and his fears more agitated for his country than he could express: that he conceived this to

be the last opportunity of providing for its liberty and happiness: that he could not, therefore, but repeat his amazement, that, when a just government, rounded on a fair representation of the people of America, was within our reach, we should renounce the blessing, from an attachment to the ideal freedom and importance of states: that should this wonderful illusion continue to prevail, his mind was prepared for every event, rather than sit down under a government founded on a vicious principle of representation, and which must be as short-lived as it would be unjust. He might prevail on himself to accede to some such expedient as had been hinted by Mr. Wilson; but he never could listen to an equality of votes, as proposed in the motion.

Mr. DAYTON. When assertion is given for proof, and terror substituted for argument, he presumed they would have no effect, however eloquently spoken. It should have been shown that the evils we have experienced have proceeded from the equality now objected to; and that the seeds of dissolution for the state governments are not sown in the general government. He considered the system on the table as a novelty, an amphibious monster; and was persuaded that it never would be received by the people.

Mr. MARTIN would never confederate, if it could not be done on just principles.

Mr. MADISON would acquiesce in the concession hinted by Mr. Wilson, on condition that a due independence should be given to the Senate. The plan in its present shape makes the Senate absolutely dependent on the states. The Senate, therefore, is only another edition of Congress. He knew the faults of that body, and had used a bold language against it. Still he would preserve the state rights as carefully as the trial by jury.

Mr. BEDFORD contended, that there was no middle way between a perfect consolidation and a mere confederacy of the states. The first is out of the question; and in the latter they must continue, if not perfectly, yet equally, sovereign. If political societies possess ambition, avarice, and all the other passions which render them formidable to each other, ought we not to view them in this light here? Will not the same motives operate in America as elsewhere? If any gentleman doubts it, let him look at the votes. Have they not been dictated by interest, by ambition? Are not the large states evidently seeking to aggrandize themselves at the expense of the small? They think, no doubt, that they have right on their side, but interest had blinded their

eyes. Look at Georgia. Though a small state at present, she is actuated by the prospect of soon being a great one. South Carolina is actuated both by present interest and future prospects. She hopes, too, to see the other states cut down to her own dimensions. North Carolina has the same motives of present and future interest. Virginia follows. Maryland is not on that side of the question. Pennsylvania has a direct and future interest. Massachusetts has a decided and palpable interest in the part she takes. Can it be expected that the small states will act from pure disinterestedness? Look at Great Britain. Is the representation there less unequal? But we shall be told, again, that that is the rotten part of the constitution. Have not the boroughs, however, held fast their constitutional rights? And are we to act with greater purity than the rest of mankind? An exact proportion in the representation is not preserved in any one of the states. Will it be said that an inequality of power will not result from an inequality of votes? Give the opportunity, and ambition will not fail to abuse it. The whole history of mankind proves it. The three large states have a common interest to bind them together in commerce. But whether a combination, as we supposed, or a competition, as others supposed, shall take place among them, in either case the small states must be ruined. We must, like Solon, make such a government as the people will approve. Will the smaller states ever agree to the proposed degradation of them? It is not true that the people will not agree to enlarge the powers of the present Congress. The language of the people has been, that Congress ought to have the power of collecting an impost, and of coercing the states where it may be necessary. On the first point they have been explicit, and, in a manner, unanimous in their declarations. And must they not agree to this, and similar measures, if they ever mean to discharge their engagements? The little states are willing to observe their engagements, but will meet the large ones on no ground but that of the Confederation. We have been told, with a dictatorial air, that this is the last moment for a fair trial in favor of good government. It will be the last, indeed, if the propositions reported from the committee go forth to the people. He was under no apprehensions. The large states dare not dissolve the Confederation. If they do, the small ones will find some foreign ally, of more honor and good faith, who will take them by the hand and do them justice. He did not mean, by this, to intimidate or alarm. It was a natural consequence, which ought to be avoided by enlarging the federal powers, not annihilating the federal system. This is what the peo-

ple expect. All agree in the necessity of a more efficient government; and why not make such a one as they desire?

Mr. ELLSWORTH. Under a national government, he should participate in the national security, as remarked by Mr. King; but that was all. What he wanted was domestic happiness. The national government could not descend to the local objects on which this depended. It could only embrace objects of a general nature. He turned his eyes, therefore, for the preservation of his rights, to the state governments. From these alone he could derive the greatest happiness he expects in this life. His happiness depends on their existence, as much as a newborn infant on its mother for nourishment. If this reasoning was not satisfactory, he had nothing to add that could be so.

Mr. KING was for preserving the states in a subordinate degree, and as far as they could be necessary for the purposes stated by Mr. Ellsworth. He did not think a full answer had been given to those who apprehended a dangerous encroachment on their jurisdictions. Expedients might be devised, as he conceived, that would give them all the security the nature of things would admit of. In the establishment of societies, the constitution was, to the legislature, what the laws were to individuals. As the fundamental rights of individuals are secured by express provisions in the state constitutions, why may not a like security be provided for the rights of states in the national constitution? The articles of union between England and Scotland furnish an example of such a provision, in favor of sundry rights of Scotland. When that union was in agitation, the same language of apprehension which has been heard from the smaller states was in the mouths of the Scotch patriots. The articles, however, have not been violated, and the Scotch have found an increase of prosperity and happiness. He was aware that this will be called a mere paper security. He thought it a sufficient answer to say that, if fundamental articles of compact are no sufficient defense against physical power, neither will there be any safety against it, if there be no compact. He could not sit down without taking some notice of the language of the honorable gentleman from Delaware (Mr. Bedford). It was not he that had uttered a dictatorial language. This intemperance had marked the honorable gentleman himself. It was not he who, with a vehemence unprecedented in that House, had declared himself ready to turn his hopes from our common country, and court the protection of some foreign hand. This, too, was the language of the honorable gentleman himself. He was grieved that such a thought had

entered his heart. He was more grieved that such an expression had dropped from his lips. The gentleman could only excuse it to himself on the score of passion. For himself, whatever might be his distress, he would never court relief from a foreign power.

Adjourned.

MONDAY, *July 2.*

In Convention.—On the question for allowing each state one vote in the second branch, as moved by Mr. Ellsworth, it was lost, by an equal division of votes,—

Connecticut, New York, New Jersey, Delaware, Maryland (Mr. Jenifer not being present, Mr. Martin alone voted), aye, 5; Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, no, 5; Georgia, divided (Mr. Baldwin, aye, Mr. Houston, no).

Mr. PINCKNEY thought an equality of votes in the second branch inadmissible. At the same time, candor obliged him to admit that the large states would feel a partiality for their own citizens, and give them a preference in appointments: that they might also find some common points in their commercial interests, and promote treaties favorable to them. There is a real distinction between the northern and southern interests. North Carolina, South Carolina and Georgia, in their rice and indigo, had a peculiar interest, which might be sacrificed. How, then, shall the larger states be prevented from administering the general government as they please, without being themselves unduly subjected to the will of the smaller? By allowing them some, but not a full, proportion. He was extremely anxious that something should be done, considering this as the last appeal to a regular experiment. Congress have failed in almost every effort for an amendment of the federal system. Nothing has prevented a dissolution of it but the appointment of this Convention; and he could not express his alarms for the consequence of such an event. He read his motion to form the states into classes, with an apportionment of senators among them. (See Article 4 of his plan.)

Gen. PINCKNEY was willing the motion might be considered. He did not entirely approve it. He liked better the motion of Dr. Franklin (q. v. June 30). Some compromise seemed to be necessary, the states being exactly divided on the question for an equality of votes in the second branch. He proposed that a committee consisting of a member from each state should be appointed to devise and report some compromise.

Mr. L. MARTIN had no objection to a commitment, but no modifications whatever could reconcile the smaller states to the least diminution of their equal sovereignty.

Mr. SHERMAN. We are now at a full stop; and nobody, he supposed, meant that we should break up without doing something. A committee he thought most likely to hit on some expedient.

Mr. GOUVERNEUR MORRIS thought a committee advisable, as the convention had been equally divided. He had a stronger reason also. The mode of appointing the second branch tended, he was sure, to defeat the object of it. What is this object? To check the precipitation, changeableness, and excesses of the first branch. Every man of observation had seen in the democratic branches of the state legislatures, precipitation—in Congress, changeableness—in every department, excesses against personal liberty, private property, and personal safety. What qualities are necessary to constitute a check in this case? Abilities and virtue are equally necessary in both branches. Something more, then, is now wanted. In the first place, the checking branch must have a personal interest in checking the other branch. One interest must be opposed to another interest. Vices, as they exist, must be turned against each other. In the second place, it must have great personal property; it must have the aristocratic spirit; it must love to lord it through pride. Pride is, indeed, the great principle that actuates both the poor and the rich. It is this principle which in the former resists, in the latter abuses, authority. In the third place, it should be independent. In religion, the creature is apt to forget its creator. That it is otherwise in political affairs, the late debates here are an unhappy proof. The aristocratic body should be as independent, and as firm, as the democratic. If the members of it are to revert to a dependence on the democratic choice, the democratic scale will preponderate. All the guards contrived by America have not restrained the senatorial branches of the legislatures from a servile complaisance to the democratic. If the second branch is to be dependent, we are better without it. To make it independent, it should be for life. It will then do wrong, it will be said. He believed so; he hoped so. The rich will strive to establish their dominion, and enslave the rest. They always did. They always will. The proper security against them is to form them into a separate interest. The two forces will then control each other. Let the rich mix with the poor, and, in a commercial country, they will establish an oligarchy. Take away commerce, and the democracy will

triumph. Thus it has been all the world over. So it will be among us. Reason tells us we are but men; and we are not to expect any particular interference of Heaven in our favor. By thus combining, and setting apart, the aristocratic interest, the popular interest will be combined against it. There will be a mutual check and mutual security. In the fourth place, an independence for life involves the necessary permanency. If we change our measures, nobody will trust us; and how avoid a change of measures, but by avoiding a change of men? Ask any man if he confides in Congress—if he confides in the state of Pennsylvania—if he will lend his money, or enter into contract? He will tell you, no. He sees no stability. He can repose no confidence. If Great Britain were to explain her refusal to treat with us, the same reasoning would be employed. He disliked the exclusion of the second branch from holding offices. It is dangerous. It is like the imprudent exclusion of the military officers, during the war, from civil appointments. It deprives the executive of the principal source of influence. If danger be apprehended from the executive, what a left-handed way is this of obviating it! If the son, the brother, or the friend, can be appointed, the danger may be even increased, as the disqualified father, etc., can then boast of a disinterestedness which he does not possess. Besides, shall the best, the most able, the most virtuous citizens, not be permitted to hold offices? Who then are to hold them? He was also against paying the senators. They will pay themselves, if they can. If they cannot, they will be rich, and can do without it. Of such the second branch ought to consist; and none but such can compose it, if they are not to be paid. He contended that the executive should appoint the Senate, and fill up vacancies. This gets rid of the difficulty in the present question. You may begin with any ratio you please, it will come to the same thing. The members being independent, and for life, may be taken as well from one place as from another. It should be considered, too, how the scheme could be carried through the states. He hoped there was strength of mind enough in this House to look truth in the face. He did not hesitate, therefore, to say that loaves and fishes must bribe the demagogues. They must be made to expect higher offices under the general than the state governments. A Senate for life will be a noble bait. Without such captivating prospects, the popular leaders will oppose and defeat the plan. He perceived that the first branch was to be chosen by the people of the states, and the second by those chosen by the people. Is not here a government by the states—a

government by compact between Virginia in the first and second branch, Massachusets in the first and second branch, etc.? This is going back to mere treaty. It is no government at all. It is altogether dependent on the states, and will act over again the part which Congress has acted. A firm government alone can protect our liberties. He fears the influence of the rich. They will have the same effect here as elsewhere, if we do not, by such a government, keep them within their proper spheres. We should remember that the people never act from reason alone. The rich will take the advantage of their passions, and make these the instruments for oppressing them. The result of the contest will be a violent aristocracy, or a more violent despotism. The schemes of the rich will be favored by the extent of the country. The people in such distant parts cannot communicate and act in concert. They will be the dupes of those who have more knowledge and intercourse. The only security against encroachments will be a select and sagacious body of men, instituted to watch against them on all sides. He meant only to hint these observations, without grounding any motion on them.

Mr. RANDOLPH favored the commitment, though he did not expect much benefit from the expedient. He animadverted on the warm and rash language of Mr. Bedford on Saturday; reminded the small states that if the large states should combine, some danger of which he did not deny, there would be a check in the revisionary power of the executive; and intimated that, in order to render this still more effectual, he would agree that, in the choice of an executive, each state should have an equal vote. He was persuaded that two such opposite bodies as Mr. Morris had planned could never long co-exist. Dissensions would arise, as had been seen even between the senate and house of delegates in Maryland; appeals would be made to the people; and in a little time commotions would be the result. He was far from thinking the large states could subsist of themselves, any more than the small; an avulsion would involve the whole in ruin; and he was determined to pursue such a scheme of government as would secure us against such a calamity.

Mr. STRONG was for the commitment; and hoped the mode of constituting both branches would be referred. If they should be established on different principles, contentions would prevail, and there would never be a concurrence in necessary measures.

Dr. WILLIAMSON. If we do not concede on both sides, our

business must soon be at an end. He approved of the commitment, supposing that, as the committee would be a smaller body, a compromise would be pursued with more coolness.

Mr. WILSON objected to the committee, because it would decide according to that very rule of voting which was opposed on one side. Experience in Congress had also proved the inutility of committees consisting of members from each state.

Mr. LANSING would not oppose the commitment, though expecting little advantage from it.

Mr. MADISON opposed the commitment. He had rarely seen any other effect than delay from such committees in Congress. Any scheme of compromise that could be proposed in the committee might as easily be proposed in the House; and the report of the committee, where it contained merely the opinion of the committee, would neither shorten the discussion, nor influence the decision of the House.

Mr. GERRY was for the commitment. Something must be done, or we shall disappoint not only America, but the whole world. He suggested a consideration of the state we should be thrown into by the failure of the Union. We should be without an umpire to decide controversies, and must be at the mercy of events. What, too, is to become of our treaties—what of our foreign debts—what of our domestic? We must make concessions on both sides. Without these, the constitutions of the several states would never have been formed.

On the question for committing, generally,—

Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye, 9; New Jersey, Delaware, no, 2.

On the question for committing it "to a member from each state,"—

Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye, 10; Pennsylvania, no, 1.

The committee, elected by ballot, were, Mr. Gerry, Mr. Ellsworth, Mr. Yates, Mr. Patterson, Dr. Franklin, Mr. Bedford, Mr. Martin, Mr. Mason, Mr. Davy, Mr. Rutledge, Mr. Baldwin.

That time might be given to the committee, and to such as choose to attend the celebrations on the anniversary of independence, the Convention adjourned till Thursday.

THURSDAY, *July* 5.

In Convention.—Mr. GERRY delivered in, from the committee appointed on Monday last, the following report:

"The committee to whom was referred the eighth resolution of the report from the committee of the whole House, and so much of the seventh as has not been decided on, submit the following report:—

"That the subsequent propositions be recommended to the Convention on condition that both shall be generally adopted.

"1. That, in the first branch of the legislature, each of the states now in the Union shall be allowed one member for every forty thousand inhabitants, of the description reported in the seventh resolution of the committee of the whole House: that each state not containing that number shall be allowed one member: that all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch.

"2. That, in the second branch, each state shall have an equal vote."

Mr. GORHAM observed that, as the report consisted of propositions mutually conditional, he wished to hear some explanations touching the grounds on which the conditions were estimated.

Mr. GERRY. The committee were of different opinions, as well as the deputations from which the committee were taken; and agreed to the report merely in order that some ground of accommodation might be proposed. Those opposed to the equality of votes have only assented conditionally; and if the other side do not generally agree, will not be under any obligation to support the report.

Mr. WILSON thought the committee had exceeded their powers.

Mr. MARTIN was for taking the question on the whole report.

Mr. WILSON was for a division of the question; otherwise it would be a leap in the dark.

Mr. MADISON could not regard the privilege of originating money bills as any concession on the side of the small states. Experience proved that it had no effect. If seven states in the upper branch wished a bill to be originated, they might surely find some member, from some of the states in the lower branch, who would originate it. The restriction as to amendments was of as little consequence. Amendments could be handed privately by the Senate to members in the other House. Bills could be negatived, that they might be sent up in the desired shape. If the Senate should yield to the obstinacy of the first branch, the use of that body, as a check, would be lost. If the first branch should yield to that of the Senate, the privilege would be nugatory. Experience had also shown, both in Great Britain, and the states having a similar regulation, that it was a source of frequent and

obstinate altercations. These considerations had produced a rejection of a like motion on a former occasion, when judged by its own merits. It could not, therefore, be deemed any concession on the present, and left in force all the objections which had prevailed against allowing each state an equal voice. He conceived that the Convention was reduced to the alternative of either departing from justice in order to conciliate the smaller states, and the minority of the people of the United States, or of displeasing these, by justly gratifying the larger states and the majority of the people. He could not himself hesitate as to the option he ought to make. The Convention, with justice and a majority of the people on their side had nothing to fear. With injustice and the minority on their side, they had everything to fear. It was in vain to purchase concord in the Convention on terms which would perpetuate discord among their constituents. The Convention ought to pursue a plan which would bear the test of examination, which would be espoused and supported by the enlightened and impartial part of America, and which they could themselves vindicate and urge. It should be considered that, although at first many may judge of the system recommended by their opinion of the Convention, yet finally all will judge of the Convention by the system. The merits of the system alone can finally and effectually obtain the public suffrage. He was not apprehensive that the people of the small states would obstinately refuse to accede to a government founded on just principles, and promising them substantial protection. He could not suspect that Delaware would brave the consequences of seeking her fortunes apart from the other states, rather than submit to such a government; much less could he suspect that she would pursue the rash policy of courting foreign support, which the warmth of one of her representatives (Mr. Bedford) had suggested; or, if she should, that any foreign nation would be so rash as to hearken to the overture. As little could he suspect that the people of New Jersey, notwithstanding the decided tone of the gentleman from that state, would choose rather to stand on their own legs, and bid defiance to events, than to acquiesce under an establishment founded on principles, the justice of which they could not dispute, and absolutely necessary to redeem them from the exactions levied on them by the commerce of the neighboring states. A review of other states would prove that there was as little reason to apprehend an inflexible opposition elsewhere. Harmony in the Convention was, no doubt, much to be desired. Satisfaction to all the states, in the first instance, still

more so. But if the principal states, comprehending a majority of the people of the United States, should concur in a just and judicious plan, he had the firmest hopes that all the other states would by degrees accede to it.

Mr. BUTLER said he could not let down his idea of the people of America so far as to believe they would, from mere respect to the Convention, adopt a plan evidently unjust. He did not consider the privilege concerning money bills as of any consequence. He urged that the second branch ought to represent the states according to their property.

Mr. GOUVERNEUR MORRIS thought the form as well as the matter of the report objectionable. It seemed, in the first place, to render amendment impracticable. In the next place, it seemed to involve a pledge to agree to the second part, if the first should be agreed to. He conceived the whole aspect of it to be wrong. He came here as a representative of America; he flattered himself he came here in some degree as a representative of the whole human race; for the whole human race will be affected by the proceedings of this Convention. He wished gentlemen to extend their views beyond the present moment of time; beyond the narrow limits of place from which they derive their political origin. If we were to believe some things which he had heard, he should suppose that we were assembled to truck and bargain for our particular states. He cannot descend to think that any gentlemen are really actuated by these views. We must look forward to the effects of what we do. These alone ought to guide us. Much has been said of the sentiments of the people. They were unknown. They could not be known. All that we can infer is that, if the plan we recommend be reasonable and right, all who have reasonable minds and sound intentions will embrace it, notwithstanding what had been said by some gentlemen. Let us suppose that the larger states shall agree, and that the smaller refuse; and let us trace the consequences. The opponents of the system in the smaller states will no doubt make a party, and a noise, for a time; but the ties of interest, of kinship, and of common habits, which connect them with other states, will be too strong to be easily broken. In New Jersey, particularly, he was sure a great many would follow the sentiments of Pennsylvania and New York. This country must be united. If persuasion does not unite it, the sword will. He begged this consideration might have its due weight. The scenes of horror attending civil commotion cannot be described; and the con-

clusion of them will be worse than the term of their continuance. The stronger party will then make traitors of the weaker; and the gallows and halter will finish the work of the sword. How far foreign powers could be ready to take part in the confusions, he would not say. Threats that they will be invited have, it seems, been thrown out. He drew the melancholy picture of foreign intrusions, as exhibited in the history of Germany, and urged it as a standing lesson to other nations. He trusted that the gentlemen who may have hazarded such expressions did not entertain them till they reached their own lips. But returning to the report, he could not think it in any respect calculated for the public good. As the second branch is now constituted, there will be constant disputes and appeals to the states, which will undermine the general government, and control and annihilate the first branch. Suppose that the delegates from Massachusetts and Rhode Island, in the upper house, disagree, and that the former are outvoted. What results? They will immediately declare that their state will not abide by the decision, and make such representations as will produce that effect. The same may happen as to Virginia and other states. Of what avail, then, will be what is on paper? State attachments, and state importance, have been the bane of this country. We cannot annihilate, but we may perhaps take out the teeth of the serpents. He wished our ideas to be enlarged to the true interest of man, instead of being circumscribed within the narrow compass of a particular spot. And, after all, how little can be the motive yielded by selfishness for such a policy! Who can say whether he himself, much less whether his children, will the next year be an inhabitant of this or that state?

Mr. BEDFORD. He found that what he had said, as to the small states being taken by the hand, had been misunderstood—and he rose to explain. He did not mean that the small states would court the aid and interposition of foreign powers. He meant that they would not consider the federal compact as dissolved until it should be so by the acts of the large states. In this case, the consequence of the breach of faith on their part, and the readiness of the small states to fulfill their engagements, would be, that foreign nations having demands on this country would find it their interest to take the small states by the hand, in order to do themselves justice. This was what he meant. But no man can foresee to what extremities the small states may be driven by oppression. He observed also, in apology, that some allowance ought to be made for the habits of his profession, in which warmth was natural

and sometimes necessary. But is there not an apology in what was said (by Mr. Gouverneur Morris) that the sword is to unite—by Mr. Gorham, that Delaware must be annexed to Pennsylvania, and New Jersey divided between Pennsylvania and New York? To hear such language without emotion, would be to renounce the feelings of a man and the duty of a citizen. As to the propositions of the committee, the lesser states have thought it necessary to have a security somewhere. This has been thought necessary for the executive magistrate of the proposed government, who has a sort of negative on the laws; and is it not of more importance that the states should be protected than that the executive branch of the government should be protected? In order to obtain this, the smaller states have conceded as to the constitution of the first branch, and as to money bills. If they be not gratified by correspondent concessions, as to the second branch, is it to be supposed they will ever accede to the plan? And what will be the consequence if nothing should be done? The condition of the United States requires that something should be immediately done. It will be better that a defective plan should be adopted, than that none should be recommended. He saw no reason why defects might not be supplied by meetings ten, fifteen, or twenty years hence.

Mr. ELLSWORTH said he had not attended the proceedings of the committee, but was ready to accede to the compromise they had reported. Some compromise was necessary; and he saw none more convenient or reasonable.

Mr. WILLIAMSON hoped that the expressions of individuals would not be taken for the sense of their colleagues, much less of their states, which was not and could not be known. He hoped, also, that the meaning of those expressions would not be misconstrued or exaggerated. He did not conceive that (Mr. Gouverneur Morris) meant that the sword ought to be drawn against the smaller states. He only pointed out the probable consequences of anarchy in the United States. A similar exposition ought to be given of the expression of Mr. Gorham. He was ready to hear the report discussed; but thought the propositions contained in it the most objectionable of any he had yet heard.

Mr. PATTERSON said that he had, when the report was agreed to in the committee, reserved to himself the right of freely discussing it. He acknowledged that the warmth complained of was improper; but he thought the sword and the gallows little calculated to produce

conviction. He complained of the manner in which Mr. Madison and Mr. G. Morris had treated the small states.

Mr. GERRY. Though he had assented to the report in the committee, he had very material objections to it. We were, however, in a peculiar situation. We were neither the same nation, nor different nations. We ought not, therefore, to pursue the one or the other of these ideas too closely. If no compromise should take place, what will be the consequence? A secession, he foresaw, would take place; for some gentlemen seemed decided on it. Two different plans will be proposed, and the result no man could foresee. If we do not come to some agreement among ourselves, some foreign sword will probably do the work for us.

Mr. MASON. The report was meant not as specific propositions to be adopted, but merely as a general ground of accommodation. There must be some accommodation on this point, or we shall make little further progress in the work. Accommodation was the object of the House in the appointment of the committee, and of the committee in the report they had made. And, however liable the report might be to objections, he thought it preferable to an appeal to the world by the different sides, as had been talked of by some gentlemen. It could not be more inconvenient to any gentleman to remain absent from his private affairs than it was for him; but he would bury his bones in this city rather than expose his country to the consequences of a dissolution of the Convention without anything being done.

The first proposition in the report for fixing the representation in the first branch, "one member for every forty thousand inhabitants," being taken up,—

Mr. GOUVERNEUR MORRIS objected to that scale of apportionment. He thought property ought to be taken into the estimate as well as the number of inhabitants. Life and liberty were generally said to be of more value than property. An accurate view of the matter would, nevertheless, prove that property was the main object of society. The savage state was more favorable to liberty than the civilized; and sufficiently so to life. It was preferred by all men who had not acquired a taste for property; it was only renounced for the sake of property, which could only be secured by the restraints of regular government. These ideas might appear to some new, but they were nevertheless just. If property, then, was the main object of government, certainly it ought to be one measure of the influence due to those who were to

be affected by the government. He looked forward, also, to that range of new states which would soon be formed in the West. He thought the rule of representation ought to be so fixed as to secure to the Atlantic States a prevalence in the national councils. The new states will know less of the public interest than these; will have an interest in many respects different; in particular, will be little scrupulous of involving the community in wars, the burdens and operations of which would fall chiefly on the maritime states. Provision ought, therefore, to be made to prevent the maritime states from being hereafter outvoted by them. He thought this might be easily done, by irrevocably fixing the number of representatives which the Atlantic States should respectively have, and the number which each new state will have. This would not be unjust, as the western settlers would previously know the conditions on which they were to possess their lands. It would be politic, as it would recommend the plan to the present, as well as future, interest of the states which must decide the fate of it.

Mr. RUTLEDGE. The gentleman last up had spoken some of his sentiments precisely. Property was certainly the principal object of society. If numbers should be made the rule of representation, the Atlantic States would be subjected to the Western. He moved that the first proposition in the report be postponed, in order to take up the following, viz.:

"That the suffrages of the several states be regulated and proportioned according to the sums to be paid towards the general revenue by the inhabitants of each state respectively; that an apportionment of suffrages, according to the ratio aforesaid, shall be made and regulated at the end of ———— years from the first meeting of the legislature of the United States, and at the end of every ——— years; but that for the present, and until the period above mentioned, the suffrages shall be for New Hampshire ————, for Massachusetts ————, etc."

Col. MASON said the case of new states was not unnoticed in the committee; but it was thought, and he was himself decidedly of opinion, that if they made a part of the Union, they ought to be subject to no unfavorable discriminations. Obvious considerations required it.

Mr. RANDOLPH concurred with Mr. Mason.

On the question on Mr. Rutledge's motion,—

South Carolina, aye, 1; Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, no, 9; Georgia, not on the floor.

Adjourned.

FRIDAY, *July* 6.

In Convention.—Mr. GOUVERNEUR MORRIS moved to commit so much of the report as relates to "one member for every forty thousand inhabitants." His view was, that they might absolutely fix the number for each state in the first instance; leaving the legislature at liberty to provide for changes in the relative importance of the states, and for the case of new states.

Mr. WILSON seconded the motion; but with a view of leaving the committee under no implied shackles.

Mr. GORHAM apprehended great inconvenience from fixing directly the number of representatives to be allowed each state. He thought the number of inhabitants the true guide; though perhaps some departure might be expedient from the full proportion. The states, also, would vary in their relative extent by separations of parts of the largest states. A part of Virginia is now on the point of separation. In the province of Maine, a convention is at this time deliberating on a separation from Massachusetts. In such events, the number of representatives ought certainly to be reduced. He hoped to see all the states made small by proper divisions, instead of their becoming formidable, as was apprehended, to the small states. He conceived that, let the government be modified as it might, there would be a constant tendency in the state governments to encroach upon it; it was of importance, therefore, that the extent of the states should be reduced as much, and as fast, as possible. The stronger the government shall be made in the first instance, the more easily will these divisions be effected; as it will be of less consequence, in the opinion of the states, whether they be of great or small extent.

Mr. GERRY did not think, with his colleague, that the larger states ought to be cut up. This policy has been inculcated by the middling and small states, ungenerously, and contrary to the spirit of the Confederation. Ambitious men will be apt to solicit needless divisions, till the states be reduced to the size of counties. If this policy should still actuate the small states, the large ones could not confederate safely with them; but would be obliged to consult their safety by confederating only with one another. He favored the commitment, and thought that representation ought to be in the combined ratio of numbers of inhabitants and of wealth, and not of either singly.

Mr. KING wished the clause to be committed, chiefly in order to detach it from the report, with which it had no connection. He thought,

also, that the ratio of representation proposed could not be safely fixed, since in a century and a half our computed increase of population would carry the number of representatives to an enormous excess; that the number of inhabitants was not the proper index of ability and wealth; that property was the primary object of society; and that, in fixing a ratio, this ought not to be excluded from the estimate. With regard to new states, he observed that there was something peculiar in the business, which had not been noticed. The United States were now admitted to be proprietors of the country northwest of Ohio. Congress, by one of their ordinances, have impoliticly laid it out into ten states, and have made it a fundamental article of compact with those who may become settlers, that, as soon as the number in any one state shall equal that of the smallest of the thirteen original states, it may claim admission into the Union. Delaware does not contain, it is computed, more than thirty-five thousand souls; and, for obvious reasons, will not increase much for a considerable time. It is possible, then, that, if this plan be persisted in by Congress, ten new votes may be added, without a greater addition of inhabitants than are represented by the single vote of Pennsylvania. The plan, as it respects one of the new states, is already irrevocable—the sale of the lands having commenced, and the purchasers and settlers will immediately become entitled to all the privileges of the compact.

Mr. BUTLER agreed to the commitment, if the committee were to be left at liberty. He was persuaded that, the more the subject was examined, the less it would appear that the number of inhabitants would be a proper rule of proportion. If there were no other objection, the changeableness of the standard would be sufficient. He concurred with those who thought some balance was necessary between the old and the new states. He contended strenuously that property was the only just measure of representation. This was the great object of government; the great cause of war; the great means of carrying it on.

Mr. PINCKNEY saw no good reason for committing. The value of land had been found, on full investigation, to be an impracticable rule. The contributions of revenue, including imports and exports, must be too changeable in their amount; too difficult to be adjusted; and too injurious to the non-commercial states. The number of inhabitants appeared to him the only just and practicable rule. He thought the blacks ought to stand on an equality with the whites; but he would agree to the ratio settled by Congress. He contended that Congress had

no right, under the Articles of Confederation, to authorize the admission of new states, no such case having been provided for.

Mr. DAVY was for committing the clause, in order to get at the merits of the question arising on the report. He seemed to think that wealth or property ought to be represented in the second branch; and numbers in the first branch.

On the motion for committing, as made by Mr. Gouverneur Morris,—

Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye, 7; New York, New Jersey, Delaware, no, 3; Maryland, divided.

The members appointed by ballot were Mr. Gouverneur Morris, Mr. Gorham, Mr. Randolph, Mr. Rutledge, Mr. King.

Mr. WILSON signified that his view in agreeing to the commitment was, that the committee might consider the propriety of adopting a scale similar to that established by the constitution of Massachusetts, which would give an advantage to the small states without substantially departing from the rule of proportion.

Mr. WILSON and Mr. MASON moved to postpone the clause relating to money bills, in order to take up the clause relating to an equality of votes in the second branch.

On the question of postponement,—

New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, aye, 8; Massachusetts, Connecticut, North Carolina, no, 3.

The clause relating to equality of votes being under consideration,—

Dr. FRANKLIN observed that this question could not be properly put by itself, the committee having reported several propositions as mutual conditions of each other. He could not vote for it if separately taken; but should vote for the whole together.

Col. MASON perceived the difficulty, and suggested a reference of the rest of the report of the committee just appointed, that the whole might be brought into one view.

Mr. RANDOLPH disliked the reference to that committee, as it consisted of members from states opposed to the wishes of the small states, and could not, therefore, be acceptable to the latter.

Mr. MARTIN and Mr. JENIFER moved to postpone the clause till the committee last appointed should report.

Mr. MADISON observed that, if the uncommitted part of the

report was connected with the part just committed, it ought also to be committed; if not connected, it need not be postponed till report should be made.

On the question for postponing, moved by Mr. Martin and Mr. Jenifer,—

Connecticut, New Jersey, Delaware, Maryland, Virginia, Georgia, aye, 6; Pennsylvania, North Carolina, South Carolina, no, 3; Massachusetts, New York, divided.

The first clause, relating to the originating of money bills, was then resumed.

Mr. GOUVERNEUR MORRIS was opposed to a restriction of this right in either branch, considered merely in itself, and as unconnected with the point of representation in the second branch. It will disable the second branch from proposing its own money plans, and giving the people an opportunity of judging, by comparison, of the merits of those proposed by the first branch.

Mr. WILSON could see nothing like a concession here on the part of the smaller states. If both branches were to say yes or no, it was of little consequence which should say yes or no first, which last. If either was, indiscriminately, to have the right of originating, the reverse of the report would, he thought, be most proper; since it was a maxim, that the least numerous body was the fittest for deliberation—the most numerous, for decision. He observed that this discrimination had been transcribed from the British into several American constitutions. But he was persuaded that, on examination of the American experiments, it would be found to be a "trifle light as air." Nor could he ever discover the advantage of it in the parliamentary history of Great Britain. He hoped, if there was any advantage in the privilege, that it would be pointed out.

Mr. WILLIAMSON thought that if the privilege were not common to both branches, it ought rather to be confined to the second, as the bills in that case would be more narrowly watched than if they originated with the branch having most of the popular confidence.

Mr. MASON. The consideration which weighed with the committee was, that the first branch would be the immediate representatives of the people; the second would not. Should the latter have the power of giving away the people's money, they might soon forget the source from whence they received it. We might soon have an aristocracy. He had been much concerned at the principles which had been advanced by

some gentlemen, but had the satisfaction to find they did not generally prevail. He was a friend to proportional representation in both branches; but supposed that some points must be yielded for the sake of accommodation.

Mr. WILSON. If he had proposed that the second branch should have an independent disposal of public money, the observations of (Col. Mason) would have been a satisfactory answer. But nothing could be farther from what he had said. His question was, how is the power of the first branch increased, or that of the second diminished, by giving the proposed privilege to the former? Where is the difference, in which branch it begins, if both must concur in the end?

Mr. GERRY would not say that the concession was a sufficient one on the part of the small states. But he could not but regard it in the light of a concession. It would make it a constitutional principle, that the second branch were not possessed of the confidence of the people in money matters, which would lessen their weight and influence. In the next place, if the second branch were dispossessed of the privilege, they would be deprived of the opportunity which their continuance in office three times as long as the first branch would give them, of making three successive essays in favor of a particular point.

Mr. PINCKNEY thought it evident that the concession was wholly on one side, that of the large states; the privilege of originating money bills being of no account.

Mr. GOUVERNEUR MORRIS had waited to hear the good effects of the restriction. As to the alarm sounded, of an aristocracy, his creed was, that there never was, nor ever will be, a civilized society without an aristocracy. His endeavor was, to keep it as much as possible from doing mischief. The restriction, if it has any real operation, will deprive us of the services of the second branch in digesting and proposing money bills, of which it will be more capable than the first branch. It will take away the responsibility of the second branch, the great security for good behavior. It will always leave a plea, as to an obnoxious money bill, that it was disliked, but could not be constitutionally amended, nor safely rejected. It will be a dangerous source of disputes between the two Houses. We should either take the British constitution altogether, or make one for ourselves. The executive there has dissolved two Houses, as the only cure for such disputes. Will our executive be able to apply such a remedy? Every law, directly or indirectly, takes money out of the pockets of the people. Again, what use

may be made of such a privilege in case of great emergency! Suppose an enemy at the door, and money instantly and absolutely necessary for repelling him—may not the popular branch avail itself of this duress to extort concessions from the Senate, destructive of the constitution itself? He illustrated this danger by the example of the Long Parliament's expedients for subverting the House of Lords; concluding, on the whole, that the restriction would be either useless or pernicious.

Dr. FRANKLIN did not mean to go into a justification of the report; but as it had been asked what would be the use of restraining the second branch from meddling with money bills, he could not but remark, that it was always of importance that the people should know who had disposed of their money, and how it had been disposed of. It was a maxim, that those who feel can best judge. This end would, he thought, be best attained if money matters were to be confined to the immediate representatives of the people. This was his inducement to concur in the report. As to the danger or difficulty that might arise from a negative in the second branch, where the people would not be proportionally represented, it might easily be got over by declaring that there should be no such negative; or, if that will not do, by declaring that there shall be no such branch at all.

Mr. MARTIN said that it was understood, in the committee, that the difficulties and disputes which had been apprehended, should be guarded against in the detailing of the plan.

Mr. WILSON. The difficulties and disputes will increase with the attempts to define and obviate them. Queen Anne was obliged to dissolve her Parliament in order to terminate one of these obstinate disputes between the two Houses. Had it not been for the mediation of the crown, no one can say what the result would have been. The point is still *sub judice* in England. He approved of the principles laid down by the honorable president (Dr. Franklin), his colleague, as to the expediency of keeping the people informed of their money affairs; but thought they would know as much, and be as well satisfied, in one way as in the other.

Gen. PINCKNEY was astonished that this point should have been considered as a concession. He remarked that the restriction as to money bills had been rejected on the merits, singly considered, by eight states against three; and that the very states which now called it a concession were then against it, as nugatory or improper in itself.

On the question whether the clause relating to money bills, in the

report of the committee consisting of a member from each state should stand as part of the report,—

Connecticut, New Jersey, Delaware, Maryland, North Carolina, aye, 5; Pennsylvania, Virginia, South Carolina, no, 3; Massachusetts, New York, Georgia, divided.

A question was then raised, whether the question was carried in the affirmative; there being but five ayes, out of eleven states, present. For the words of the rule, see May 28.

On this question,—

Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, aye, 9; New York, Virginia, no, 2.

(In several preceding instances, like votes had *sub silentio* been entered as decided in the affirmative).

Adjourned.

SATURDAY, *July 7.*

In Convention.—The question, shall the clause, "allowing each state one vote in the second branch, stand as part of the report," being taken up,—

Mr. GERRY. This is the critical question. He had rather agree to it than have no accommodation. A government short of a proper national plan, if generally acceptable, would be preferable to a proper one which, if it could be carried at all, would operate on discontented states. He thought it would be best to suspend this question till the committee, appointed yesterday, should make report.

Mr. SHERMAN supposed that it was the wish of everyone that some general government should be established. An equal vote in the second branch would, he thought, be most likely to give it the necessary vigor. The small states have more vigor in their governments than the large ones; the more influence, therefore, the large ones have, the weaker will be the government. In the large states it will be most difficult to collect the real and fair sense of the people; fallacy and undue influence will be practiced with the most success; and improper men will most easily get into office. If they vote by states in the second branch, and each state has an equal vote, there must always be a majority of states, as well as a majority of the people, on the side of public measures, and the government will have decision and efficacy. If this be not the case in the second branch, there may be a majority of states against public measures; and the difficulty of compelling them to abide by the public determination will render the government feebler than it has ever yet been.

Mr. WILSON was not deficient in a conciliating temper, but firmness was sometimes a duty of higher obligation. Conciliation was also misapplied in this instance. It was pursued here rather among the representatives than among the constituents; and it would be of little consequence if not established among the latter; and there could be little hope of its being established among them, if the foundation should not be laid in justice and right.

On the question, shall the words stand as part of the report?—

Connecticut, New York, New Jersey, Delaware, Maryland, North Carolina, aye, 6; Pennsylvania, Virginia, South Carolina, no, 3; Massachusetts, Georgia, divided.

Mr. GERRY thought it would be proper to proceed to enumerate and define the powers to be vested in the general government, before a question on the report should be taken as to the rule of representation in the second branch.

Mr. MADISON observed that it would be impossible to say what powers could be safely and properly vested in the government, before it was known in what manner the states were to be represented in it. He was apprehensive that, if a just representation were not the basis of the government, it would happen, as it did when the Articles of Confederation were depending, that every effectual prerogative would be withdrawn or withheld, and the new government would be rendered as impotent and as short-lived as the old.

Mr. PATTERSON could not decide whether the privilege concerning money bills were a valuable consideration or not; but he considered the mode and rule of representation in the first branch as fully so; and that after the establishment of that point, the small states would never be able to defend themselves without an equality of votes in the second branch. There was no other ground of accommodation. His resolution was fixed. He would meet the large states on that ground, and no other. For himself, he should vote against the report, because it yielded too much.

Mr. GOUVERNEUR MORRIS. He had no resolution unalterably fixed except to do what should finally appear to him right. He was against the report because it maintained the improper constitution of the second branch. It made it another Congress, a mere whisp of straw. It had been said (by Mr. Gerry) that the new government would be partly national, partly federal; that it ought, in the first quality, to protect individuals; in the second, the states. But in what quality was it to protect the aggregate interest of the whole? Among the many provi-

sions which had been urged, he had seen none for supporting the dignity and splendor of the American empire. It had been one of our greatest misfortunes that the great objects of the nation had been sacrificed constantly to local views; in like manner as the general interest of states had been sacrificed to those of the counties. What is to be the check in the Senate? None; unless it be to keep the majority of the people from injuring particular states. But particular states ought to be injured for the sake of a majority of the people, in case their conduct should deserve it. Suppose they should insist on claims evidently unjust, and pursue them in a manner detrimental to the whole body: suppose they should give themselves up to foreign influence: ought they to be protected in such cases? They were originally nothing more than colonial corporations. On the Declaration of Independence, a government was to be formed. The small states, aware of the necessity of preventing anarchy, and taking advantage of the moment, extorted from the large ones an equality of votes. Standing now on that ground, they demand, under the new system, greater rights, as men, than their fellow-citizens of the large states. The proper answer to them is, that the same necessity, of which they formerly took advantage, does not now exist; and that the large states are at liberty now to consider what is right, rather than what may be expedient. We must have an efficient government, and if there be an efficiency in the local governments, the former is impossible. Germany alone proves it. Notwithstanding their common Diet, notwithstanding the great prerogatives of the emperor, as head of the empire, and his vast resources, as sovereign of his particular dominions, no union is maintained; foreign influence disturbs every internal operation, and there is no energy whatever in the general government. Whence does this proceed? From the energy of the local authorities; from its being considered of more consequence to support the Prince of Hess than the happiness of the people of Germany. Do gentlemen wish this to be the case here? Good God, sir, is it possible they can so delude themselves? What—if all the charters and constitutions of the states were thrown into the fire, and all their demagogues into the ocean—what would it be to the happiness of America? And will not this be the case here, if we pursue the train in which the business lies. We shall establish an Aulic Council without an emperor to execute its decrees. The same circumstances which unite the people here, unite them in Germany. They have there a common language, a common law, common usages and manners, and a common interest in

being united; yet their local jurisdictions destroy every tie. The case was the same in the Grecian states. The United Netherlands are at this time torn in factions. With these examples before our eyes, shall we form establishments which must necessarily produce the same effects? It is of no consequence from what districts the second branch shall be drawn, if it be so constituted as to yield an asylum against these evils. As it is now constituted, he must be against it being drawn from the states in equal portions; but shall be ready to join in devising such an amendment of the plan as will be most likely to secure our liberty and happiness.

Mr. SHERMAN and Mr. ELLSWORTH moved to postpone the question on the report from the committee of a member from each state, in order to wait for the report from the committee of five last appointed,—

Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, aye, 6; New York, Virginia, North Carolina, South Carolina, Georgia, no, 5.

Adjourned.

MONDAY, *July* 9.

Mr. RUTLEDGE proposed to reconsider the two propositions touching the originating of money bills, in the first, and the equality of votes in the second, branch.

Mr. SHERMAN was for the question on the whole at once. It was, he said, a conciliatory plan; it had been considered in all its parts; a great deal of time had been spent upon it; and if any part should now be altered, it would be necessary to go over the whole ground again.

Mr. L. MARTIN urged the question on the whole. He did not like many parts of it. He did not like having two branches, nor the inequality of votes in the first branch. He was willing, however, to make trial of the plan, rather than do nothing.

Mr. WILSON traced the progress of the report through its several stages; remarking that when, on the question concerning an equality of votes, the House was divided, our constituents, had they voted as their representatives did, would have stood as two-thirds against the equality, and one-third only in favor of it. This fact would ere long be known, and it would appear that this fundamental point has been carried by one-third against two-thirds. What hopes will our constituents entertain, when they find that the essential principles of justice have been violated in the outset of the government? As to the

privilege of originating money bills, it was not considered by any as of much moment, and by many as improper in itself. He hoped both clauses would be reconsidered. The equality of votes was a point of such critical importance, that every opportunity ought to be allowed for discussing and collecting the mind of the Convention upon it.

Mr. L. MARTIN denies that there were two-thirds against the equality of votes. The states that please to call themselves large are the weakest in the Union. Look at Massachusetts—look at Virginia—are they efficient states? He was for letting a separation take place, if they desired it. He had rather there should be two confederacies, than one founded on any other principle than an equality of votes, in the second branch at least.

Mr. WILSON was not surprised that those who say that a minority does more than a majority should say the minority is stronger than the majority. He supposed the next assertion will be, that they are richer also; though he hardly expected it would be persisted in, when the states shall be called on for taxes and troops.

Mr. GERRY also animadverted on Mr. L. Martin's remarks on the weakness of Massachusetts. He favored the reconsideration, with a view, not of destroying the equality of votes, but of providing that the states should vote *per capita,* which, he said, would prevent the delays and inconveniences that had been experienced in Congress, and would give a national aspect and spirit to the management of business. He did not approve of a reconsideration of the clause relating to money bills. It was of great consequence. It was the corner-stone of the accommodation. If any member of the Convention had the exclusive privilege of making propositions, would any one say that it would give him no advantage over other members? The report was not altogether to his mind: but he would agree to it as it stood, rather than throw it out altogether.

The reconsideration being tacitly agreed to,—

Mr. PINCKNEY moved, that, instead of an equality of votes, the states should be represented in the second branch as follows: New Hampshire by two members; Massachusetts, four; Rhode Island, one; Connecticut, three; New York, three; New Jersey, two; Pennsylvania, four; Delaware, one; Maryland, three; Virginia, five; North Caroline, three; South Carolina, three; Georgia, two; making in the whole, thirty-six.

Mr. WILSON seconds the motion.

Mr. DAYTON. The smaller states can never give up their equality. For himself, he would in no event yield that security for their rights.

Mr. SHERMAN urged the equality of votes, not so much as a security for the small states, as for the state governments, which could not be preserved unless they were represented, and had a negative in the general government. He had no objection to the members in the second branch voting *per capita,* as had been suggested by (Mr. Gerry).

Mr. MADISON concurred in this motion of Mr. Pinckney, as a reasonable compromise.

Mr. GERRY said, he should like the motion, but could see no hope of success. An accommodation must take place, and it was apparent, from what had been seen, that it could not do so on the ground of the motion. He was utterly against a partial confederacy, leaving other states to accede or not accede, as had been intimated.

Mr. KING said, it was always with regret that he differed from his colleagues, but it was his duty to differ from (Mr. Gerry) on this occasion. He considered the proposed government as substantially and formally a general and national government over the people of America. There never will be a case in which it will act as a federal government, on the states, and not on the individual citizens. And is it not a clear principle that, in a free government, those who are to be the objects of a government ought to influence the operations of it? What reason can be assigned, why the same rule of representation should not prevail in the second as in the first branch? He could conceive none. On the contrary, every view of the subject that presented itself seemed to require it. Two objections had been raised against it, drawn, first, from the terms of the existing compact; secondly, from a supposed danger to the smaller states. As to the first objection, he thought it inapplicable. According to the existing Confederation, the rule by which the public burden is to be apportioned is fixed, and must be pursued. In the proposed government, it cannot be fixed, because indirect taxation is to be substituted. The legislature, therefore, will have full discretion to impose taxes in such modes and proportions as they may judge expedient. As to the second objection, he thought it of as little weight. The general government can never wish to intrude on the state governments. There could be no temptation. None had been pointed out. In order to prevent the interference of measures which seemed most likely to happen, he would have no objection to throwing all the state debts

into the federal debt, making one aggregate debt of about $70,000,000, and leaving it to be discharged by the general government. According to the idea of securing the state governments, there ought to be three distinct legislative branches. The second was admitted to be necessary, and was actually meant to check the first branch—to give more wisdom, system, and stability, to the government; and ought clearly, as it was to operate on the people, to be proportioned to them. For the third purpose, of securing the states, there ought then to be a third branch, representing the states as such, and guarding, by equal votes, their rights and dignities. He would not pretend to be as thoroughly acquainted with his immediate constituents as his colleagues; but it was his firm belief that Massachusetts would never be prevailed on to yield to an equality of votes. In New York, (he was sorry to be obliged to say any thing relative to that state in the absence of its representatives, but the occasion required it,) in New York he had seen that the most powerful argument used by the considerate opponents to the grant of the impost to Congress, was pointed against the vicious constitution of Congress with regard to representation and suffrage. He was sure that no government would last that was not founded on just principles. He preferred the doing of nothing, to an allowance of an equal vote to all the states. It would be better, he thought, to submit to a little more confusion and convulsion than to submit to such an evil. It was difficult to say what the views of different gentlemen might be. Perhaps there might be some who thought no government co-extensive with the United States could be established with a hope of its answering the purpose. Perhaps there might be other fixed opinions incompatible with the object we are pursuing. If there were, he thought it but candid that gentlemen should speak out, that we might understand one another.

Mr. STRONG. The Convention had been much divided in opinion. In order to avoid the consequences of it, an accommodation had been proposed. A committee had been appointed; and, though some of the members of it were averse to an equality of votes, a report had been made in favor of it. It is agreed, on all hands, that Congress are nearly at an end. If no accommodation takes places, the Union itself must soon be dissolved. It has been suggested that, if we cannot come to any general agreement, the principal states may form and recommend a scheme of government. But will the small states, in that case, ever accede to it? Is it probable that the large states themselves will, under such circumstances, embrace and ratify it? He thought the

small states had made a considerable concession, in the article of money bills, and that they might naturally expect some concessions on the other side. From this view of the matter, he was compelled to give his vote for the report taken altogether.

Mr. MADISON expressed his apprehensions that, if the proper foundation of government was destroyed, by substituting an equality in place of a proportional representation, no proper superstructure would be raised. If the small states really wish for a government armed with the powers necessary to secure their liberties, and to enforce obedience on the larger members, as well as themselves, he could not help thinking them extremely mistaken in the means. He reminded them of the consequences of laying the existing Confederation on improper principles. All the principal parties to its compilation joined immediately in mutilating and fettering the government in such a manner that it has disappointed every hope placed on it. He appealed to the doctrine and arguments used by themselves on a former occasion. It had been very properly observed (by Mr. Patterson) that representation was an expedient by which the meeting of the people themselves was rendered unnecessary; and that the representatives ought therefore to bear a proportion to the votes which their constituents, if convened, would respectively have. Was not this remark as applicable to one branch of the representation as to the other? But it had been said that the government would, in its operation, be partly federal, partly national; that although in the latter respect the representatives of the people ought to be in proportion to the people, yet, in the former, it ought to be according to the number of states. If there was any solidity in this distinction, he was ready to abide by it; if there was none, it ought to be abandoned. In all cases where the general government is to act on the people, let the people be represented, and the votes be proportional. In all cases where the government is to act on the states as such, in like manner as Congress now acts on them, let the states be represented, and the votes be equal. This was the true ground of compromise, if there was any ground at all. But he denied that there was any ground. He called for a single instance in which the general government was not to operate on the people individually. The practicability of making laws, with coercive sanctions, for the states as political bodies, had been exploded on all hands. He observed, that the people of the large states would, in some way or other, secure to themselves a weight proportioned to the importance accruing from

their superior numbers. If they could not effect it by a proportional representation in the government, they would probably accede to no government which did not, in a great measure, depend for its efficacy on their voluntary co-operation; in which case, they would indirectly secure their object. The existing Confederacy proved that where the acts of the general government were to be executed by the particular governments, the latter had a weight in proportion to their importance. No one would say that, either in Congress or out of Congress, Delaware had equal weight with Pennsylvania. If the latter was to supply ten times as much money as the former, and no compulsion could be used, it was of ten times more importance that she should voluntarily furnish the supply. In the Dutch confederacy, the votes of the provinces were equal; but Holland, which supplies about half the money, governed the whole republic. He enumerated the objections against an equality of votes in the second branch, notwithstanding the proportional representation in the first. 1. The minority could negative the will of the majority of the people. 2. They could extort measures, by making them a condition of their assent to other necessary measures. 3. They could obtrude measures on the majority, by virtue of the peculiar powers which would be vested in the Senate. 4. The evil, instead of being cured by time, would increase with every new state that should be admitted, as they must all be admitted on the principle of equality. 5. The perpetuity it would give to the preponderance of the northern against the southern scale was a serious consideration. It seemed now to be pretty well understood, that the real difference of interest lay, not between the large and small, but between the northern and southern, states. The institution of slavery, and its consequences, formed the line of discrimination. There were five states on the southern, eight on the northern side of this line. Should a proportional representation take place, it was true, the northern would still outnumber the other; but not in the same degree, at this time; and every day would tend towards an equilibrium.

Mr. WILSON would add a few words only. If equality in the second branch was an error that time would correct, he should be less anxious to exclude it, being sensible that perfection was unattainable in any plan; but being a fundamental and a perpetual error, it ought by all means to be avoided. A vice in the representation, like an error in the first concoction, must be followed by disease, convulsions, and, finally, death itself. The justice of the general principle of proportional

representation has not, in argument at least, been yet contradicted. But it is said that a departure from it, so far as to give the states an equal vote in one branch of the legislature, is essential to their preservation. He had considered this position maturely, but could not see its application. That the states ought to be preserved, he admitted. But does it follow, that an equality of votes is necessary for the purpose? Is there any reason to suppose that, if their preservation should depend more on the large than on the small states, the security of the states against the general government would be diminished? Are the large states less attached to their existence, more likely to commit suicide, than the small? An equal vote, then, is not necessary, as far as he can conceive, and is liable, among other objections, to this insuperable one: The great fault of the existing Confederacy is its inactivity. It has never been a complaint against Congress, that they governed overmuch. The complaint has been, that they have governed too little. To remedy this defect we were sent here. Shall we effect the cure by establishing an equality of votes, as is proposed? No; this very equality carries us directly to Congress,—to the system which it is our duty to rectify. The small states cannot indeed act, by virtue of this equality, but they may control the government, as they have done in Congress. This very measure is here prosecuted by a minority of the people of America. Is, then, the object of the Convention likely to be accomplished in this way? Will not our constituents say, "We sent you to form an efficient government, and you have given us one more complex, indeed, but having all the weakness of the former government"? He was anxious for uniting all the states under one government. He knew there were some respectable men who preferred three confederacies, united by offensive and defensive alliances. Many things may be plausibly said, some things may be justly said, in favor of such a project. He could not, however, concur in it himself; but he thought nothing so pernicious as bad first principles.

Mr. ELLSWORTH asked two questions. One of Mr. Wilson, whether he had ever seen a good measure fail in Congress for want of a majority of states in its favor. He had himself never known such an instance. The other of Mr. Madison, whether a negative lodged with the majority of the states, even the smallest, could be more dangerous than the qualified negative proposed to be lodged in a single executive magistrate, who must be taken from some one state.

Mr. SHERMAN signified that his expectation was, that the gen-

eral legislature would in some cases act on the federal principle of requiring quotas. But he thought it ought to be empowered to carry their own plans into execution, if the states should fail to supply their respective quotas.

On the question for agreeing to Mr. Pinckney's motion, for allowing New Hampshire two, Massachusetts four, &c., it passed in the negative.

Pennsylvania, Maryland, Virginia, South Carolina, ay, 4; Massachusetts, (Mr. King, ay, Mr. Gorham absent,) Connecticut, New Jersey, Delaware, North Carolina, Georgia, no, 6.

Adjourned.

MONDAY, *July* 16.

In Convention.—On the question for agreeing to the whole report, as amended, and including the equality of votes in the second branch, it passed in the affirmative.

Connecticut, New Jersey, Delaware, Maryland, North Carolina, (Mr. Spaight, no,) ay, 5; Pennsylvania, Virginia, South Carolina, Georgia, no, 4; Massachusetts, divided, (Mr. Gerry, Mr. Strong, ay; Mr. King, Mr. Gorham, no).

The whole, thus passed, is in the words following, viz.:—

"*Resolved,* That, in the original formation of the legislature of the United States, the first branch thereof shall consist of sixty-five members, of which number New Hampshire shall send 3; Massachusetts, 8; Rhode Island, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; Georgia, 3. But as the present situation of the states may probably alter in the number of their inhabitants, the legislature of the United States shall be authorized, from time to time, to apportion the number of representatives; and in case any of the states shall hereafter be divided, or enlarged by addition of territory, or any two or more states united, or any new states created within the limits of the United States, the legislature of the United States shall possess authority to regulate the number of representatives, in any of the foregoing cases, upon the principle of their number of inhabitants, according to the provisions hereafter mentioned: provided always, that representation ought to be proportioned according to direct taxation. And in order to ascertain the alteration in the direct taxation, which may be required from time to time by the changes in the relative circumstances of the states,—

"*Resolved,* That a census be taken within six years from the first meeting of the legislature of the United States, and once within the term of every ten years afterwards, of all the inhabitants of the United States, in the manner and according to the ratio recommended by Congress in their resolution of the 18th day of April, 1783; and that the legislature of the United States shall proportion the direct taxation accordingly.

"*Resolved,* That all bills for raising or appropriating money, and for fixing the salaries of officers of the government of the United States, shall originate in the first branch of the legislature of the United States, and shall not be altered or amended in the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch.

"*Resolved,* That, in the second branch of the legislature of the United States, each state shall have an equal vote."

The sixth resolution in the report from the committee of the whole House, which had been postponed, in order to consider the seventh and eighth resolutions, was now resumed. (See the resolution.)

"That the national legislature ought to possess the legislative rights vested in Congress by the Confederation," was agreed to, *nem. con.*

"And moreover to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation," being read for a question,—

Mr. BUTLER calls for some explanation of the extent of this power; particularly of the word incompetent. The vagueness of the terms rendered it impossible for any precise judgment to be formed.

Mr. GORHAM. The vagueness of the terms constitutes the propriety of them. We are now establishing general principles, to be extended hereafter into details, which will be precise and explicit.

Mr. RUTLEDGE urged the objection started by Mr. Butler; and moved that the clause should be committed, to the end that a specification of the powers comprised in the general terms might be reported.

On the question for commitment, the votes were equally divided.

Connecticut, Maryland, Virginia, South Carolina, Georgia, ay, 5; Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina, no, 5. So it was lost.

Mr. RANDOLPH. The vote of this morning (involving an equality of suffrage in the second branch) had embarrassed the business extremely. All the powers given in the report from the committee of the whole were founded on the supposition that a proportional representation was to prevail in both branches of the legislature. When he came here this morning, his purpose was to have offered some propositions that might, if possible, have united a great majority of votes, and particularly might provide against the danger suspected on the part of the smaller states, by enumerating the cases in which it might lie, and allowing an equality of votes in such cases. But finding, from the preceding vote, that they persist in demanding an equal vote in all cases; that they have succeeded in obtaining it; and that New

York, if present, would probably be on the same side; he could not but think we were unprepared to discuss the subject further. It will probably be in vain to come to any final decision, with a bare majority on either side. For these reasons he wished the Convention to adjourn, that the large states might consider the steps proper to be taken, in the present solemn crisis of the business; and that the small states might also deliberate on the means of conciliation.

Mr. PATTERSON thought, with Mr. Randolph, that it was high time for the Convention to adjourn; that the rule of secrecy ought to be rescinded; and that our constituents should be consulted. No conciliation could be admissible, on the part of the smaller states, on any other ground than that of an equality of votes in the second branch. If Mr. Randolph would reduce to form his motion for an adjournment *sine die,* he would second it with all his heart.

Gen. PINCKNEY wished to know of Mr. Randolph, whether he meant an adjournment *sine die,* or only an adjournment for the day. If the former was meant, it differed much from his idea. He could not think of going to South Carolina and returning again to this place. Besides, it was chimerical, to suppose that the states, if consulted, would ever accord separately and beforehand.

Mr. RANDOLPH had never entertained an idea of an adjournment *sine die,* and was sorry that his meaning had been so readily and strangely misinterpreted. He had in view merely an adjournment till to-morrow, in order that some conciliatory experiment might, if possible, be devised; and that in case the smaller states should continue to hold back, the larger might then take such measures—he would not say what—as might be necessary.

Mr. PATTERSON seconded the adjournment till to-morrow, as an opportunity seemed to be wished by the larger states to deliberate further on conciliatory expedients.

On the question for adjourning till to-morrow, the states were equally divided,—

New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, ay, 5; Massachusetts, Connecticut, Delaware, South Carolina, Georgia, no, 5. So it was lost.

Mr. BROOME thought it his duty to declare his opinion against an adjournment *sine die,* as had been urged by Mr. Patterson. Such a measure, he thought, would be fatal. Something must be done by the Convention, though it should be by a bare majority.

Mr. GERRY observed, that Massachusetts was opposed to an adjournment, because they saw no new ground of compromise. But as it seemed to be the opinion of so many states that a trial should be made, the state would now concur in the adjournment.

Mr. RUTLEDGE could see no need of an adjournment, because he could see no chance of a compromise. The little states were fixed. They had repeatedly and solemnly declared themselves to be so. All that the large states, then, had to do was, to decide whether they would yield or not. For his part, he conceived that, although we could not do what we thought best in itself, we ought to do something. Had we not better keep the government up a little longer, hoping that another convention will supply our omissions, than abandon every thing to hazard? Our constituents will be very little satisfied with us, if we take the latter course.

Mr. RANDOLPH and Mr. KING renewed the motion to adjourn till to-morrow.

On the question,—

Massachusetts, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, ay, 7; Connecticut, Delaware, no, 2; Georgia, divided.

Adjourned.

[On the morning following, before the hour of the Convention, a number of the members from the larger states, by common agreement, met for the purpose of consulting on the proper steps to be taken in consequence of the vote in favor of an equal representation in the second branch, and the apparent inflexibility of the smaller states on that point. Several members from the latter states also attended. The time was wasted in vague conversation on the subject, without any specific proposition or agreement. It appeared, indeed, that the opinions of the members who disliked the equality of votes differed much as to the importance of that point, and as to the policy of risking a failure of any general act of the Convention by inflexibly opposing it. Several of them—supposing that no good government could or would be built on that foundation, and that, as a division of the Convention into two opinions was unavoidable, it would be better that the side comprising the principal states, and a majority of the people of America, should propose a scheme of government to the states, than that a scheme should be proposed on the other side—would have concurred in a firm opposition to the smaller states, and in a separate recommendation, if eventually necessary. Others seemed inclined to yield to the smaller states, and to concur in such an act, however imperfect and exceptionable, as might be agreed on by the Convention as a body, though decided by a bare majority of states and by a minority of the people of the United States. It is probable that the result of this consultation satisfied the smaller states that they had nothing to apprehend from a union of the

larger in any plan whatever against the equality of votes in the second branch.]

TUESDAY, *July* 17.

Mr. GOUVERNEUR MORRIS and Mr. KING moved, that the representation in the second branch consist of ——— members from each state, who shall vote *per capita.*

Mr. ELLSWORTH said he had always approved of voting in that mode.

Mr. GOUVERNEUR MORRIS moved to fill the blank with three. He wished the Senate to be a pretty numerous body. If two members only should be allowed to each state, and a majority be made a quorum, the power would be lodged in fourteen members, which was too small a number for such a trust.

Mr. GORHAM preferred two to three members for the blank. A small number was most convenient for deciding on peace and war, &c., which he expected would be vested in the second branch. The number of states will also increase. Kentucky, Vermont, the Province of Maine, and Franklin, will probably soon be added to the present number. He presumed, also, that some of the largest states would be divided. The strength of the general government will be, not in the largeness, but the smallness, of the states.

Col. MASON thought three from each state, including new states, would make the second branch too numerous. Besides other objections, the additional expense ought always to form one, where it was not absolutely necessary.

Mr. WILLIAMSON. If the number be too great, the distant states will not be on an equal footing with the nearer states. The latter can more easily send and support their ablest citizens. He approved of the voting *per capita.*

On the question for filling the blank with "three,"—

Pennsylvania, ay, 1; New Hampshire, Massachusetts, Connecticut, Delaware, Virginia, North Carolina, South Carolina, Georgia, no, 8.

On the question for filling it with "two,"—agreed to, *nem. con.*

Mr. L. MARTIN was opposed to voting *per capita,* as departing from the idea of the states being represented in the second branch.

Mr. CARROLL was not struck with any particular objection against the mode; but he did not wish so hastily to make so material an innovation.

On the question on the whole motion, viz., "the second branch to consist of two members from each state, and to vote *per capita,*"—

New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, ay, 9; Maryland, no, 1.

THE FRENCH REVOLUTION

To UNDERSTAND the French Revolution it is necessary to realize what was the previous condition of the French people. During the days of feudalism it will be remembered that France was made up of a vast number of estates and that the lord of each estate, while he held his fief from some over-lord, was practically an absolute czar over his own district. When the throne under Louis XIII. got almost complete ascendency over the nobility, the relations between king and baron were indeed changed, but the autocracy of the baron or bishop over his people remained. The power remained the same, but the spirit changed for the worse, for as the splendors of the court demanded the presence of the nobles and residence on their estates was resorted to practically only in case of exile from Versailles, all personal fellow-feeling between the lord and his people disappeared. The feudal powers were executed without mercy. The king owned a fifth of the land. The nobles another fifth. They paid what they pleased to support the state. The priests another fifth: they paid what they pleased. The remaining two-fifths were divided between the cities and the common people. The people supported the state, the nobility, and the church. The taxes were farmed the same as in Roman days, and the farmers-general were hated as thoroughly and as rightly as the Roman publicans had been. The peasant could hardly live or breathe without permission. He could be imprisoned without trial. He had to work the roads. He had to buy seven pounds of salt a year for table use only at the state's own price. Smuggling meant the galleys. Wild game was sacred. It was the galleys or death for the peasant to kill it. Seed could not be steeped—it

might injure the birds. Weeds could not be hoed out—the young partridges might be disturbed. Manuring was regulated so as not to hurt the flavor of the pheasants. Hay could not be mowed until late—it had to be left as a shelter for the game. The deer and wild boars must be left to range free over the crops. The fields must not be fully fenced—it would interfere with the lord's hunting. Grain had to be ground at the lord's mill; bread had to be baked in his oven; both at a high price. There were the regular feudal aids, and all sorts of special assessments and burdens. Justice was in the hands of the lord of the domain, and the courts were hopelessly prejudiced and rotten. The church was rich and intolerant, and although many of the common priests had a sympathy for the masses, yet most of the church dignitaries were at the same time hereditary nobles of the realm, with all the belief in the privileges of their order.

The ideas that eventually led to the Revolution began to take force in France some fifty years before it. The great advances made by natural and social science helped to bring in the spirit of criticism in government and tolerance and a mild skepticism in religion. The ideas of the Bill of Rights and Locke on natural rights, the supremacy of the people and toleration, and the first revolt against the mercantile theory of trade under Petty and Locke, both had great influence among intelligent Frenchmen of the nobility and upper middle classes. Voltaire became the champion of toleration, the foe of the hard-bound church system that enveloped France. Montesquieu (1748) gave the impulse to criticism in government that would soon be applied to France. Rousseau took up the English idea of the social contract and argued for the entire supremacy of the people and the equality of all (1752). The Encyclopedists, such as D'Alembert and Diderot, exalted natural science and disparaged the church system, and in political economy helped develop the physiocratic theory of free trade and a tax only on land. All these ideas were at work among the professional classes and the nobility, few of the latter at least realizing whither they led.

The first effect of the reaction caused by these new ideas, was the expulsion, although for political reasons, of the order of Jesuits in 1764.

Ten years later Louis XV. died and Louis XVI. came to the throne (1774). The king was well disposed and seriously tried to find a way to relieve the financial straits of the government and the woes of the people. Turgot, the great disciple of the physiocratic economics, was made minister of finance, and brought forward his famous measures

for the abolition of privileges and economy in the state. Class interests were against him and he was forced to resign. Jacques Necker, who followed him, adopted only temporary expedients to keep up the credit of the government. About this time the government saw its chance to humble England by helping the colonies, and the war that followed, though it was successful in freeing the colonies, and in vindicating the Continental theory that a neutral flag should protect the cargo outside a blockade, yet plunged French finances into a deeper exhaustion. Necker was dismissed for a time (1781), and Calonne increased the extravagance of the court, and was finally (1787) compelled to call an assembly of the notables. He wanted to abolish the forced labor on roads, equalize the land-tax, and introduce free-trade in grain. The nobles would not consent and he, too, resigned (1787). In August the same year, the king held a grand *lit de Justice,*—session of parliament,—to enforce a land and stamp tax. The parliament, before its dismissal, called for the States-General. This was an assemblage of the three estates, representing the nobility, the church and the commons. Its last session had been in 1614, but the idea took with the people and the king promised to call it. In the meantime parliament was recalled from Troyes, and a loan of $80,000,000 forced through, and toleration granted to the protestants. Parliament declared *lettres de cachet* (involving imprisonment at the pleasure of the king) illegal, and the king in turn took away their right to consent to his decrees. The provincial parliaments were treated the same way. The spirit of resistance was aroused over all France, and the Jacobin (republican) club was organized.

Necker was recalled in 1788, and the States-General summoned for May 5, 1789. The crops of 1788 were destroyed by hail, and famine was all over the land, while the state was bankrupt and could give no aid.

The States-General, through Necker's influence, was to be made up of as many members of the third estate (the commons) as of the other two combined. In fact, the clergy returned 291 members, the nobles 270, the commons 557. The *cahirs* of the orders give a good idea of what each desired the States-General to remedy—the nobles and clergy presented the complaints of their own orders, the third estate demanded equal rights and privileges.

They met at Versailles, May 5, 1787, and immediately the third estate clashed with the others on the question of organizing and voting

as three separate or as one parliament of individuals. Slowly the commons began to feel that they were, in the words of Abbé Sieyès, the nation, and finally, June 17, 1789, they organized themselves as the National Assembly, and the clergy were persuaded to join them.

The king closed the hall in which they met and bade the two orders convene as separate bodies, but they met in a tennis court and swore to uphold one another and the people of France. Finally part of the nobles, headed by the Duke of Orleans, joined them and the victory of the commons was complete.

The queen's party tried to mass the troop to the aid of the court, but the king did not wish bloodshed and delayed. On July 12, 1789, the troops tried to disperse one of the crowds in Paris and fired on the people. One of the French guard was among the killed and the whole guard went over to the people's side. Paris expected an attack from the state troops, a new city government was formed, and a militia collected. The mob seized arms wherever found. On July 14, led partly by the hope of finding arms, partly because it was a political prison, the mob attacked the Bastille. The governor, De Launay, finally thought best to surrender, and the mob murdered him and some of the surviving guards.

The king was willing to accept constitutional limitations on his power, the queen's party was not. The peasants rose everywhere, and the nobles fled from France. Necker was recalled. The assembly got to work on a new constitution.

The nobles, clergy, cities, all laid down their privileges. The watchword was equality for all. The assembly took up the idea of natural rights that had been first formulated in Roman law, and had been developed anew by Grotius, Puffendorf, the English Whigs, Rousseau, and the American Revolution, and enlarged upon it in the Rights of Man. To us it seems made up of a lot of axioms: it is a telling fact that they were new to feudal France. From this time, 1789, dates the beginning of the end of the old order of things on the continent.

The king and queen accepted the new state of things sulkily and were compelled by the mob to come to Paris to be virtually imprisoned. The center of the Revolution had become the city, the mob had learned its power.

The assembly was still at work on the constitution. France was subdivided anew. Trial by jury was introduced in criminal cases. The

lands of the clergy and church were seized and there were issued *assignats* based on the value of the land. The monasteries were abolished, and the clergy ordered to take oath to obey the constitution. Most of them opposed the interference of the state, and henceforth the Revolution was worked out by the non-religious classes. All nobility was abolished. The common soldiers even turned out their noble officers.

The king refused to follow the assembly to such radical lengths, but hesitated what to do. Mirabeau, the most influential man of the assembly, openly tried to save some of the royal power, and secretly advised the king to escape to Lyons. Mirabeau died before the escape was attempted, and when it was tried, the court was captured. The king was looked upon by the radicals as a traitor to the people. Robespierre and the Jacobins petitioned for his deposition, but the republicans were dispersed by Lafayette and for a time held in check.

The king signed the new constitution and the old assembly dissolved (Sept. 30, 1791). The next day the new assembly was convened. There were a number of factions. The Feuillants supported the king; the Girondists were republican, but supported the new constitution; the Mountain (on the upper seats) included the Jacobins, led outside by Robespierre, and the Cordeliers, led at the club by Danton, both extreme republicans.

Austria and Prussia declared war against France, demanding the restoration of the nobility. The king's cabinet was suspected and changed to a Girondist one headed by Roland; the king himself was looked at askance.

The French generals could not be got to move. Marat and the Jacobins charged treachery and called for victims. The king secretly sent abroad for help, and formed a Feuillant cabinet. Then the extremists headed by Danton and the Jacobins forced a new revolution. They overpowered the assembly, deposed and imprisoned the king, established the Commune, and massacred the Swiss guards.

The leading spirits were Danton, Marat, and Robespierre. Lafayette was forced to flee. The massacre of suspected persons went on with horrible persistency. The luck of the French arms changed, and the invading battalions were driven back.

The National Convention decreed the abolition of Royalty, September 21, 1792. The next day was "the first day of the Republic, year I." The king was tried by the Convention and convicted. He was executed January 21, 1793. This step brought practically all Europe

against the Republic. The Mountain met the issue boldly with a levy of 300,000 men.

Insurrection arose. Dumouriez, the general, tried to march on Paris, but his volunteer soldiers drove him into the Austrian lines. March 10, 1793, the revolt of the Vendee broke out in the west in favor of the priesthood of Brittany. The Girondists threatened to march from the south against the Jacobins. Marat was assassinated by Charlotte Corday, a girl from a Girondist stronghold. But the Mountain under Danton and Robespierre rose superior to all these difficulties. The Girondists were sent to the guillotine. The queen followed. None suspected were spared. The Vendee were subdued. The foreign invading armies were driven back in the south and held in check at the north.

But France had made the mistake that rendered a representative government impossible. The central power was at once legislative, executive, judicial,—supreme, unchecked. There was no separation of powers, and the result was a tyranny. The instrument of terror was the Committee of Public Safety. It condemned secretly, the trial was a farce, and witnesses were later denied altogether.

The most bloodthirsty of the committee were the Hebertists, the most lenient the Dantonists. Robespierre stood between them and disliked them both. Early in 1794 Robespierre, making a combination with Danton, sent the Hebertists to the block because they were atheists (March 24). About two weeks later (April 5) Robespierre sent Danton himself to the guillotine.

For a few months Robespierre was let to reign supreme. One of his first acts was to re-establish the worship of the Divine Being. Atheists were condemned and the massacres kept up, but in July the terrorists combined against him and he fell July 28, 1794. A reaction set in against the wholesale bloodshed. The National Convention regained its powers. It even decreed that two-thirds of the next assembly must be chosen from itself. The citizen guards of Paris rushed to attack it, but were swept down by the cannon of young Bonaparte. The executive power of the government was put in the hands of a Directory of Five. Bonaparte at the end of 1795 was made commander of the army in Italy. The events that followed are a part of the story of Napoleon.

Looking back on the Revolution, we can see that, in spite of its horrible excesses, it did really stand for, develop, and spread, the ideas

of equality, fraternity, and the supremacy of the people, and that it undermined the old feudal order of things throughout Europe. It failed at first to develop a permanent representative government for the same reason why the Puritan Revolution at first failed—because its legislative head, left judicial, executive, unchecked, developed into a tyranny, and left the way open for a man with the genius and the power behind it sufficient to seize the arbitrary power the legislature had proved itself unable to wield. But the ideas of the French Revolution, like those of the Puritan Revolution, remained, and as the one had its successors in the Bill of Rights and the American Revolution, so the other has its present representative in the French Republic.

THE CONDITION OF THE FRENCH PEOPLE

BY ARTHUR YOUNG

[ARTHUR YOUNG was born September 7, 1741, in Suffolk, England. After a year spent in a mercantile house at Lynn, he took the supervision of Bradfield Hall from his mother (1759) and in 1767 undertook the management of a farm in Essex, on his own account. From this time most of his life was spent in studying and experimenting in agriculture and publishing accounts of what he had done and seen. His letters became immensely popular with the landlords of England. He undertook a number of journeys in order to visit and study the farms of England and France. The French journeys are what interest us here. He travelled through France from May to November, 1787; again on horseback in 1788, and a third time not long afterward. He is the best source of our information concerning the actual conditions existing among the French people just before the Revolution. He died in 1820.]

THE GROSS infamy which attended *lettres de cachet* and the Bastile, during the whole reign of Louis XV. made them esteemed in England, by people not well informed, as the most prominent features of the despotism of France. They were certainly carried to an excess hardly credible; to the length of being sold, with blanks, to be filled up with names at the pleasure of the purchaser; who was thus able, in the grati-

fication of private revenge, to tear a man from the bosom of his family, and bury him in a dungeon, where he would exist forgotten, and die unknown!* But such excesses could not be common in any country; and they were reduced almost to nothing, from the accession of the present King. The great mass of the people, by which I mean the lower and middle ranks, could suffer very little from such engines, and as few of them are objects of jealousy, had there been nothing else to complain of, it is not probable they would ever have been brought to take arms. The abuses attending the levy of taxes were heavy and universal. The kingdom was parceled into generalities, with an intendant at the head of each, into whose hands the whole power of the crown was delegated for everything except the military authority; but particularly for all affairs of finance. The generalities were subdivided into elections, at the head of which was a *sub-delegue* appointed by the intendant. The rolls of the *taille,* capitation, *vingtiemes,* and other taxes, were distributed among districts, parishes, and individuals, at the pleasure of the intendant, who could exempt, change, add, or diminish at pleasure.

* An anecdote which I have from an authority to be depended on, will explain the profligacy of government, in respect to these arbitrary imprisonments. Lord Albemarle, when ambassador in France, about the year 1753, negotiating the fixing of the limits of the American colonies, which, three years after, produced the war, calling one day on the minister for foreign affairs, was introduced, for a few minutes, into his cabinet, while he finished a short conversation in the apartment in which he usually received those who conferred with him. As his lordship walked backwards and forwards in a very small room (a French cabinet is never a large one), he could not help seeing a paper lying on the table, written in a large legible hand, and containing a list of the prisoners in the Bastile, in which the first name was Gordon. When the minister entered, Lord Albemarle apologized for his involuntary remarking the paper; the other replied that it was not of the least consequence, for they made no secret of the names. Lord A. then said that he had seen the name of Gordon first in the list, and he begged to know, as in all probability the person of this name was a British subject, on what account he had been put into the Bastile. The minister told him that he knew nothing of the matter, but would make the proper inquiries. The next time he saw Lord Albemarle he informed him that, on inquiring into the case of Gordon, he could find no person who could give him the least information; on which he had had Gordon himself interrogated, who solemnly affirmed that he had not the smallest knowledge, or even suspicion, of the cause of his imprisonment, but that he had been confined 30 years; however, added the minister, I ordered him to be immediately released, and he is now at large. Such a case wants no comment.

Such an enormous power, constantly acting, and from which no man was free, must, in the nature of things, degenerate in many cases into absolute tyranny. It must be obvious that the friends, acquaintances, and dependents of the intendant, and of all his *sub-delegues,* and the friends of these friends, to a long chain of dependence, might be favoured in taxation at the expense of their miserable neighbours; and that noblemen in favour at court, to whose protection the intendant himself would naturally look up, could find little difficulty in throwing much of the weight of their taxes on others, without a similar support. Instances, and even gross ones, have been reported to me in many parts of the kingdom, that made me shudder at the oppression to which numbers must have been condemned, by the undue favours granted to such crooked influence. But, without recurring to such cases, what must have been the state of the poor people paying heavy taxes, from which the nobility and clergy were exempted? A cruel aggravation of their misery, to see those who could best afford to pay, exempted because able! The inrollments for the militia, which the *cahiers* call an injustice without example, were another dreadful scourge on the peasantry; and, as married men were exempted from it, occasioned in some degree that mischievous population, which brought beings into the world, in order for little else than to be starved. The *corvees,* or police of the roads, were annually the ruin of many hundreds of farmers; more than 300 were reduced to beggary in filling up one vale in Lorraine: all these oppressions fell on the *tiers etat* only; the nobility and clergy having been equally exempted from *tailles,* militia and *corvees.* The penal code of finance makes one shudder at the horrors of punishment inadequate to the crime.* A few features will sufficiently characterize the old government of France:

* It is calculated by a writer (*Recherches et Confid. par M. le Baron de Cormere,* tom. ii. p. 187), very well informed on every subject of finance, that, upon an average, there were annually taken up and sent to prison or the galleys, men, 2,340; women, 896; children, 201; total, 3,437; 300 of these to the galleys (tom. i. p. 112). The salt confiscated from these miserables amounted to 12,633 quintals, which, at the mean price of 8 liv. are.....101,064 liv.

2,772lb of salted flesh, at 10f.....	1,386
1,086 horses, at 50 liv.....	54,300
52 carts, at 150 liv.....	7,800
Fines	53,207
Seized in houses.....	105,530
	323,287

1. Smugglers of salt, armed and assembled to the number of five, in Provence, a fine of 500 liv. and nine years galleys—in all the rest of the kingdom, death.

2. Smugglers, armed, assembled, but in number under five, a fine of 300 liv. and three years galleys. Second offense, death.

3. Smugglers, without arms, but with horses, carts or boats, a fine of 300 liv.; if not paid, three years galleys. Second offense, 400 liv. and nine years galleys. In Dauphiné, second offense, galleys for life. In Provence, five years galleys.

4. Smugglers who carry the salt on their backs, and without arms, a fine of 200 liv. and if not paid, are flogged and branded. Second offense, a fine of 300 liv. and six years galleys.

5. Women, married and single, smugglers, first offense, a fine of 100 liv. Second, 500 liv. Third, flogged and banished the kingdom for life. Husbands responsible both in fine and body.

6. Children smugglers, the same as women—fathers and mothers responsible; and for defect of payment, flogged.

7. Nobles, if smugglers, deprived of their nobility; and their houses razed to the ground.

8. Any persons in employments (I suppose employed in the salt works or the revenue), if smugglers, death. And such as assist in the theft of salt in the transport, hanged.

9. Soldiers smuggling, with arms, are hanged; without arms, galleys for life.

10. Buying smuggled salt, to resell it, the same punishments as for smuggling.

11. Persons in the salt employments, empowered if two, or one with two witnesses, to enter and examine houses even of the privileged orders.

12. All families and persons liable to the *taille* in the provinces of the *Grandes Gabelles* enrolled, and their consumption of salt for the pot and *saliere* (that is, the daily consumption, exclusive of salting meat, etc., etc.,) estimated at 7 pounds a head per annum, which quantity they are forced to buy, whether they want it or not, under the pain of various fines, according to the case.

The *Capitaineries* were a dreadful scourge on all the occupiers of land. By this term is to be understood the paramountship of certain districts, granted by the king to princes of the blood, by which they were put in possession of the property of all game, even on lands not

belonging to them; and, what is very singular, on manors granted long before to individuals; so that the erecting of a district into a *capitainerie* was an annihilation of all manerial rights to game within it. This was a trifling business, in comparison of other circumstances; for, in speaking of the preservation of the game in these *capitaineries,* it must be observed that by game must be understood whole droves of wild boars, and herds of deer not confined by any wall or pale, but wandering at pleasure over the whole country, to the destruction of crops; and to the peopling of the galleys by the wretched peasants, who presumed to kill them in order to save that food which was to support their helpless children. The game in the *capitainerie* of Montceau, in four parishes only, did mischief to the amount of 184,263 liv. per annum. No wonder then that we should find the people asking, "*Nous demandons a grand cris la destruction des capitaineries and celle de tout sorte de gibier.*" And what are we to think of demanding, as a favour, the permission—"*De nettoyer ses grains de faucher les pres artificiels, and d'enlever ses chammes sans egard pour la perdrix on tout autre gibier.*" Now an English reader will scarcely understand it without being told, that there were numerous edicts for preserving the game which prohibited weeding and hoeing, lest the young partridges should be disturbed; steeping feed, lest it should injure the game; manuring with night soil, lest the flavour of the partridges should be injured by feeding on the corn so produced; mowing hay, etc., before a certain time, so late as to spoil many crops; and taking away the stubble, which would deprive the birds of shelter. The tyranny exercised in these *capitaineries,* which extended over 400 leagues of country, was so great that many *cahiers* demanded the utter suppression of them. Such were the exertions of arbitrary power which the lower orders felt directly from the royal authority; but, heavy as they were, it is a question whether the others, suffered circuitously through the nobility and the clergy, were not yet more oppressive. Nothing can exceed the complaints made in the *cahiers* under this head. They speak of the dispensation of justice in the manerial courts, as comprising every species of despotism; the districts indeterminate—appeals endless—irreconciliable to liberty and prosperity—and irrevocably proscribed in the opinion of the public—augmenting litigations—favouring every species of chicane—ruining the parties—not only by enormous expenses on the most petty objects, but by a dreadful loss of time. The judges, commonly ignorant pretenders, who hold their courts in *cabarets,* and are absolutely dependent

on the seigneurs. Nothing can exceed the force of expression used in painting the oppressions of the seigneurs, in consequence of their feudal powers. They are *"vexations qui sont le plus grand fleau des peuples.—Esclavage affligeant.—Ce regime desastreuse.*—That the *feodalite* be forever abolished. The countryman is tyrannically enslaved by it. Fixed and heavy rents; vexatious processes to secure them; appreciated unjustly to augment them; rents, *folidaires,* and *revenchables;* rents, *cheantes* and *levantes; fumages.* Fines at every change of the property, in the direct, as well as collateral line; feudal redemption (*retraite*); fines on sale to the 8th and even the 6th penny; redemptions (*rachats*) injurious in their origin, and still more so in their extension; *banalite* of the mill,* of the oven, and of the wine and cider press; *corvees* by custom; *corvees* by usage of the fief; *corvees* established by unjust decrees; *corvees* arbitrary, and even fantastical; servitudes, prestations, extravagant and burthensome; collections by assessments incollectible; *aveux, minus, impuniessemens;* litigations ruinous and without end; the rod of seigneural finance forever shaken over our heads; vexation, ruin, outrage, violence, and destructive servitude, under which the peasants, almost on a level with Polish slaves, can never but be miserable, vile and oppressed. They demand also that the use of hand-mills be free; and hope that posterity, if possible, may be ignorant that feudal tyranny in Bretagne, armed with the judicial power, has not blushed even in these times at breaking hand-mills, and at selling annually to the miserable the faculty of bruising between two stones a measure of buckwheat or barley. The very terms of these complaints are unknown in England, and consequently untranslatable; they have probably arisen long since the feudal system ceased in this kingdom. What are these tortures of the peasantry in Bretagne, which they call *chevanches, quintaines, soule, saut de poison, baiser de mariees; chansons; transporte d'oeuf sur un charette; silence des grenouilles***; *cor-*

*By this horrible law the people are bound to grind their corn at the mill of the seigneur only; to press their grapes at his press only; and to bake their bread in his oven; by which means the bread is often spoiled, and more especially wine, since in Champagne those grapes which, pressed immediately, would make white wine, will, by waiting for the press, which often happens, make red wine only.

**This is a curious article; when the lady of the seigneur lies in, the people are obliged to beat the waters in marshy districts, to keep the frogs silent, that she may not be disturbed; this duty, a very oppressive one, is commuted into a pecuniary fine.

vee, a misericorde; milods; leide; couponage; cartelage; barage; fouage; marechausee; ban vin; ban d'aout; trousses; gelinage; civerage; taillabilite; vingtain; sterlage; bordelage; minage; ban de vendanges; droit d'accapte. In passing through many of the French provinces, I was struck with the various and heavy complaints of the farmers and little proprietors of the feudal grievances, with the weight of which their industry was burthened; but I could not then conceive the multiplicity of the shackles which kept them poor and depressed. I understood it better afterwards, from the conversation and complaints of some grand seigneurs, as the revolution advanced; and I then learned that the principal rental of many estates consisted in services and feudal tenures; by the baneful influence of which the industry of the people was almost exterminated. In regard to the oppressions of the clergy, as to tithes, I must do that body a justice, to which a claim cannot be laid in England. Though the ecclesiastical tenth was levied in France more severely than usual in Italy, yet it was never exacted with such horrid greediness as is at present the disgrace of England. When taken in kind, no such thing was known in any part of France, where I made inquiries, as a tenth: it was always a twelfth, or a thirteenth, or even a twentieth of the produce. And in no part of the kingdom did a new article of culture pay anything: thus turnips, cabbages, clover, chicory, potatoes, etc., paid nothing. In many parts meadows were exempted. Silk worms nothing. Olives in some places paid—in more they did not. Cows nothing. Lambs from the 12th to the 21st. Wool nothing. Such mildness in the levy of this odious tax is absolutely unknown in England. But mild as it was, the burthen to people groaning under so many other oppressions, united to render their situation so bad that no charge could be for the worse. But these were not all the evils with which the people struggled. The administration of justice was partial, venal, infamous. I have, in conversation with many very sensible men in different parts of the kingdom, met with something of content with their government, in all other respects than this; but upon the question of expecting justice to be really and fairly administered, everyone confessed there was no such thing to be looked for. The conduct of the parliaments was profligate and atrocious. Upon almost every cause that came before them, interest was openly made with the judges; and woe betide the man who, in a cause to support, had no means of conciliating favour, either by the beauty of a handsome wife, or by other

methods. It has been said by many writers that property was as secure under the old government of France as it is in England; and the assertion might probably be true, as far as any violence from the King, his ministers, or the great was concerned; but for all that mass of property, which comes in every country to be litigated in courts of justice, there was not even the shadow of security, unless the parties were totally and equally unknown; and totally and equally honest; in every other case, he who had the best interest with the judges, was sure to be the winner. To reflecting minds, the cruel and abominable practice attending such courts are sufficiently apparent. There was also a circumstance in the constiution of these parliaments, but little known in England, and which, under such a government as that of France, must be considered as very singular. They had the power, and were in the constant practice of issuing decrees without the consent of the crown, and which had the force of laws through the whole of their jurisdiction; and of all other laws, these were sure to be the best obeyed; for as all infringements of them were brought before the sovereign courts, composed of the same persons who had enacted these laws (a horrible system of tyranny!) they were certain of being punished with the last severity. It must appear strange, in a government so despotic in some respects as that of France, to see the parliaments in every part of the kingdom making laws without the King's consent, and even in defiance of his authority. The English, whom I met in France in 1789, were surprised to see some of these bodies issuing arrests against the export of corn out of the provinces subject to their jurisdiction, into the neighbouring provinces, at the same time that the King, through the organ of so popular a minister as Mons. Necker, was decreeing an absolutely free transport of corn throughout the kingdom, and even at the requisition of the National Assembly itself. But this was nothing new; it was their common practice. The parliament of Rouen passed an arret against killing of calves; it was a preposterous one, and opposed by administration; but it had its full force; and had a butcher dared to offend against it, he would have found, by the rigour of his punishment, who was his master. Inoculation was favoured by the court in Louis XV.'s time; but the parliament of Paris passed an arret against it, much more effective in prohibiting, than the favour of the court in encouraging that practice. Instances are innumerable, and I may remark that the bigotry, ignorance, false principles, and tyranny of these bodies were generally conspicuous; and that the court (taxation

excepted) never had a dispute with a parliament, but the parliament was sure to be wrong. Their constitution, in respect to the administration of justice was so truly rotten, that the members sat as judges, even in causes of private property, in which they were themselves the parties, and have, in this capacity, been guilty of oppressions and cruelties which the crown has rarely dared to attempt.

It is impossible to justify the excesses of the people on their taking up arms; they were certainly guilty of cruelties; it is idle to deny the facts, for they have been proven too clearly to admit of a doubt. But is it really the people to whom we are to impute the whole? Or to their oppressors, who had kept them so long in a state of bondage? He who chooses to be served by slaves, and by ill-treated slaves, must know that he holds both his property and life by a tenure far different from those who prefer the service of well-treated freemen; and he who dines to the music of groaning sufferers, must not, in the moment of insurrection, complain that his daughters are ravished and then destroyed; and that his sons' throats are cut. When such evils happen, they surely are more imputable to the tyranny of the master than to the cruelty of the servant. The analogy holds with the French peasants—the murder of a seigneur, or a chateau in flames, is recorded in every newspaper; the rank of the person who suffers, attracts notice; but where do we find the register of that seigneur's oppressions of his peasantry, and his exactions of feudal services, from those whose children were dying around them for want of bread? Where do we find the minutes that assigned these starving wretches to some vile pettyfogger, to be fleeced by impositions, and a mockery of justice, in the seigneural courts? Who gives us the awards of the intendant and his *sub-delegues,* which took off the taxes of a man of fashion, and laid them, with accumulated weight, on the poor, who were so unfortunate as to be his neighbours? Who has dwelt sufficiently upon explaining all the ramifications of despotism, regal, aristocratical, and ecclesiastical, pervading the whole mass of the people; reaching, like a circulating fluid, the most distant capillary tubes of poverty and wretchedness? In these cases the sufferers are too ignoble to be known; and the mass too indiscriminate to be pitied. But should a philosopher feel and reason thus? should he mistake the cause for the effect? and giving all his pity to the few, feel no compassion for the many, because they suffer in his eyes not individually, but by millions? The excesses of the people cannot, I repeat, be justified; it would undoubtedly have done them credit, both as men

and christians, if they had possessed their new acquired power with moderation. But let it be remembered, that the populace in no country ever use power with moderation; excess is inherent in their aggregate constitution; and as every government in the world knows, that violence infallibly attends power in such hands, it is doubly bound in common sense, and for common safety, to so conduct itself, that the people may not find an interest in public confusions. They will always suffer much and long, before they are effectually roused; nothing, therefore, can kindle the flame, but such oppressions of some classes or order in the society, as give able men the opportunity of seconding the general mass; discontent will soon diffuse itself around; and if the government take not warning in time, it is alone answerable for all the burnings, and plunderings, and devastation, and blood that follow. The true judgment to be formed of the French revolution must surely be gained from an attentive consideration of the evils of the old government: when these are well understood—and when the extent and universality of the oppression under which the people groaned—oppression which bore upon them from every quarter, it will scarcely be attempted to be urged that a revolution was not absolutely necessary to the welfare of the kingdom. Not one opposing voice can, with reason, be raised against this assertion: abuses are certainly to be corrected, and corrected effectually: this could not be done without the establishment of a new form of government; whether the form that has been adopted were the best, is another question, absolutely distinct. But that the above mentioned detail of enormities practiced on the people required some great change is sufficiently apparent; and I cannot better conclude such a list of detestable oppressions, than in the words of the *Tiers Etat* of Nivernois, who hailed the approaching day of liberty with an eloquence worthy of the subject.

"Les plaintes du peuple se sont long-temps perdues dans l'espace immense qui le sépare du trône; cette classe la plus nombreuse et la plus intéressante de la société; cette classe qui mérite les premiers soins du gouvernement, puisqu' elle alimente toutes les autres; cette classe à laquelle on doit et les arts nécessaires à la vie, et ceux qui en embellissent le cours; cette classe enfin qui en recueillant moins a toujours payé davantage, peut-elle apres tant de fiécles d'oppression et de misère compter aujourdhui fur un sort plus heureux? Ce seroit pour ainsi dire blasphémer l'autorité tutélaire sous laquelle nous vivons que

d'én douter un seul moment. Un respect aveugle pour les abus établis ou pour la violence ou par la superstition, une ignorance profonde des conditions du pacte social voila ce qui a perpétué jusqu' à nous la servitude dans laquelle out gemi nos pères. Un jour plus pure est près d'eclorre; le roi a manifesté le desir de trouver des sujets capables de lui dire la vérité; une de ses loix l'edit de création des assmblées provinciales du moi de Juin, 1787, annonce que le voeu le plus pressent de son coeur sera toujours celui qui tendra au soulagement et au bonheur de ses peuples: une autre loi qui a retenti du centre du Royaume à ses dernières extrémités nous a promis la restitution de tous nos droits, dont nous n'avions perdu, et dont nous ne pouvions perdre que l'exercise puisque le fond de ces mêmes droits est inaliénable et imprescriptible. Osons donc secouer le joug des anciennes erreurs; osons dire tout ce qui est vrai, tout ce qui est utile; osons réclaimer les droits essentiels et primitifs de l'homme: la raison l'equité, l'opinion générale, la bienfaisance connue de notre auguste souverain tout concour à assurer le succès de nous doléances."

[The complaints of the people have long lost themselves in the vast space that separates them from the throne. This class, the most numerous and the most interesting of society; this class which deserves the first attentions of government, since it feeds all the others; this class to which we owe the arts necessary to life and those which adorn progress; this class, in short, which in getting less has always paid more,—can it, after so many centuries of oppression and misery, count to-day upon a happier fate? To doubt it for a single moment would be to blaspheme the tutelary authority under which we live. A blind respect for established abuses or for violence or for superstition, a profound ignorance of the social compact, these are what have perpetuated up to our time the servitude in which our fathers groaned. A brighter day is about to dawn. The king has shown a desire to find subjects capable of telling him the truth. One of his laws, the decree known as "Creation of Provincial Assemblies, June, 1787," announces that the most pressing wish of his heart will always be to promote the relief and the happiness of his people. Another law which has resounded from the center of the kingdom to its farthest extremities has promised us the restitution of all our rights. It is only the exercise of those rights that we have lost, or could lose, for their very foundations are inalienable and imprescriptible. Let us therefore shake off the yoke of ancient errors; let us dare to say all that is true, all that is useful; let us dare to reclaim the essential and primitive rights of men. Reason, equity, public opinion, the well-known benevolence of our august sovereign, all co-operate to assure the success of our complaints.]

Having seen the propriety, or rather the necessity, of some change in the government, let us next briefly inquire into the effects of the revolution on the principal interests in the kingdom.

In respect to all the honours, power, and profit derived to the nobility from the feudal system, which was of an extent in France beyond anything known in England since the revolution, or long parliament in 1640, all is laid in the dust, without a rag or remnant being spared: the importance of these, both in influence and revenue, was so great that the result is all but ruin to numbers. However, as these properties were real tyrannies; as they rendered the possession of one spot of land ruinous to all around it—and equally subversive of agriculture, and the common rights of mankind, the utter destruction brought on all this species of property does not ill deserve the epithet they are so fond of in France; it is a real regeneration of the people to the privileges of human nature. No man of common feelings can regret the fall of that abominable system, which made a whole parish slaves to the lord of the manor. But the effects of the revolution have gone much farther; and have been attended with consequences not equally justifiable. The rents of land, which are as legal under the new government as they were under the old, are no longer paid with regularity. I have been lately informed (August, 1791,), on authority not to be doubted, that associations among tenantry, to a great amount and extent, have been formed, even within fifty miles of Paris, for the non-payment of rent; saying, in direct terms, we are strong enough to detain the rent, and you are not strong enough to enforce the payment. In a country where such things are possible, property of every kind, it must be allowed, is in a dubious situation. Very evil consequences will result from this; arrears will accumulate too great for the landlords to lose, or for the peasants to pay, who will not easily be brought to relish that order and legal government, which must necessarily secure these arrears to their right owners. In addition to all the rest, by the new system of taxation, there is laid a land tax of 300 millions, or not to exceed 4s. in the pound; but under the old government their *vingtiemes* did not amount to the seventh part of such an impost. In whatever light, therefore, the case of French landlords is viewed, it will appear that they have suffered immensely by the revolution. That many of them deserved it, cannot, however, be doubted, since we see their *cahiers* demanding steadily that all their feudal rights should be confirmed: that the carrying of arms should be strictly prohibited to everybody but

noblemen; that the infamous arrangements of the militia should remain on its old footing: that breaking up wastes, and inclosing commons should be prohibited: that the nobility alone should be eligible to enter the army, church, etc.: that *lettres de cachet* should continue: that the press should not be free: and, in fine, that there should be no free corn trade.

To the clergy the revolution has been yet more fatal. One word will dispatch this inquiry. The revolution was a decided benefit to all the lower clergy of the kingdom; but it was destructive of all the rest. It is not easy to know what they lost on the one hand, or what the national account will gain on the other. Mons. Necker calculates their revenue at 130,000,000 liv., of which only 42,500,000 liv. were in the hands of the *curees* of the kingdom. Their wealth has been much exaggerated: a late writer says they possessed half the kingdom. Their number was as little known as their revenue; one writer makes them 400,000; another 81,400; a third, 80,000.

The clergy in France have been supposed by many persons in England to merit their fate from their peculiar profligacy. But this idea is not accurate: that so large a body of men, possessed of very great revenues, should be free from vice, would be improbable, or rather impossible; but they preserved, what is not always preserved in England, an exterior decency of behavior. One did not find among them poachers or fox-hunters, who, having spent the morning in scampering after hounds, dedicate the evening to the bottle, and reel from inebriety to the pulpit. Such advertisements were never seen in France as I have heard of in England: "Wanted, a curacy in a good sporting country, where the duty is light and the neighbourhood convivial." The proper exercise for a country clergyman is the employment of agriculture; which demands strength and activity—and which, vigorously followed, will fatigue enough to give ease its best relish. A sportsman parson may be, as he often is in England, a good sort of man, and an honest fellow; but certainly this pursuit, and the resorting to obscene comedies, and kicking their heels in the jig of an assembly, are not the occupations for which we can suppose tithes were given. Whoever will give any attention to the demands of the clergy in their *cahiers,* will see that there was on many topics an ill spirit in that body. They maintain, for instance, that the liberty of the press ought rather to be restrained than extended: that the laws against it should be renewed and executed: that admission into religious orders should be,

as formerly, at sixteen years of age: that *lettres de cachet* are useful and even necessary. They solicit to prohibit all division of commons; to revoke the edict allowing inclosures; that the export of corn be not allowed; and that public granaries be established.

The ill effects of the revolution have been felt more severely by the manufacturers of the kingdom than by any other class of the people. The rivalry of the English fabrics, in 1787 and 1788, was strong and successful; and the confusions that followed in all parts of the kingdom had the effect of lessening the incomes of so many landlords, clergy, and men in public employments; and such numbers fled from the kingdom, that the general mass of the consumption of national fabrics sunk perhaps three-fourths. The men, whose incomes were untouched, lessening their consumption greatly, from an apprehension of the unsettled state of things; the prospects of a civil war, suggested to every man that his safety, perhaps his future bread, depended on the money which he could hoard. The inevitable consequence was turning absolutely out of employment immense numbers of workmen. I have, in the diary of the journey, noticed the infinite misery to which I was a witness at Lyons, Abbeville, Amiens, etc., and by intelligence I understood that it was still worse at Rouen: the fact could not be otherwise. This effect, which was absolute death, by starving many thousands of families, was a result that, in my opinion, might have been avoided. It flowed only from carrying things to extremities—from driving the nobility out of the kingdom, and seizing, instead of regulating, the whole regal authority. These violences were not necessary to liberty; they even destroyed true liberty, by giving the government of the kingdom, in too great a degree, to Paris, and to the populace of every town.

The effect of the revolution to the small proprietors of the kingdom, must, according to the common nature of events, be, in the end, remarkably happy; and had the new government adopted any principles of taxation, except those of the *oeconomistes,* establishing at the same time an absolute freedom in the business of inclosure, and in the police of corn, the result would probably have been advantageous, even at this recent period. The committee of imposts mention (and I doubt not their accuracy) the prosperity of agriculture, in the same page in which they lament the depression of every other branch of the national industry. Upon a moderate calculation there remained in the hands of the classes depending on land, on the account of taxes in the years 1789 and 1790, at least 300,000,000 liv.; the execution of *corvees* was as lax

as the payment of taxes. To this we are to add two years' tithe, which I cannot estimate at less than 300,000,000 liv. more. The abolition of all feudal rents, and payments of every sort during those two years, could not be less than 100,000,000 liv., including services. But all these articles, great as they were, amounting to near 800,000,000 liv., were less than the immense sums that came into the hands of the farmers by the high price of corn throughout the year 1789; a price arising almost entirely from Mons. Necker's fine operations in the corn trade, as it has been proved at large; it is true there is a deduction to be made on account of the unavoidable diminution of consumption in every article of land produce, not essentially necessary to life; every object of luxury, or tending to it, is lessened greatly. But after this discount is allowed, the balance in favour of the little proprietor farmers must be very great. The benefit of such a sum being added as it is to the capital of husbandry, needs no explanation. Their agriculture must be invigorated by such wealth—by the freedom enjoyed by its professors: by the destruction of its innumerable shackles; and even by the distresses of other employments, occasioning new and great investments of capital in land: and these leading facts will appear in a clearer light when the prodigious division of landed property in France is well considered; probably half, perhaps two-thirds, of the kingdom are in the possession of little proprietors, who paid quit-rents, and feudal duties, for the spots they farmed. Such men are placed at once in comparative affluence; and as ease is thus acquired by at least half the kingdom, it must not be set down as a point of trifling importance. Should France escape a civil war, she will, in the prosperity of these men, find a resource which politicians at a distance do not calculate. With renters the case is certainly different; for, beyond all doubt, landlords will, sooner or later, avail themselves of these circumstances by advancing their rents; acting in this respect, as in every other country, is common; but they will find it impossible to deprive the tenantry of a vast advantage, necessarily flowing from their emancipation.

The confusion which has since arisen in the finances, owing almost entirely to the mode of taxation adopted by the assembly, has had the effect of continuing to the present moment (1791) a freedom from all impost to the little proprietors, which, however dreadful its general effects on the national affairs, has tended strongly to enrich this class.

The effects of the revolution, not on any particular class of cultivators, but on agriculture in general, is with me, I must confess, very

questionable; I see no benefits flowing particularly to agriculture (liberty applies equally to all classes, and is not yet sufficiently established for the protection of property), except the case of tithes; but I see the rise of many evils; restrictions and prohibitions on the trade of corn—a varying land-tax—and impeded inclosures, are mischiefs on principle, that may have a generative faculty; and will prove infinite drawbacks from the prosperity, which certainly was attainable. It is to be hoped that the good sense of the assembly will reverse this system by degrees; for, if it is not reversed, agriculture cannot flourish.

The effect of the revolution, on the public revenue, is one great point on which Mons. de Calonne lays considerable stress; and it has been since urged in France that the ruin of 30,000 families, thrown absolutely out of employment, and consequently out of bread, in the collection of the taxes on salt and tobacco only, has had a powerful influence in spreading universal distress and misery. The public revenue sunk, in one year, 175 millions: this was not a loss of that sum; the people to whom assignats were paid on that account lost no more than the discount; the loss, therefore, to the people to whom that revenue was paid, could amount to no more than from 5 to 10 per cent. But was it a loss to the miserable subjects who formerly paid those taxes; and who paid them by the sweat of their brows, at the expense of the bread out of their children's mouths, assessed with tyranny, and levied in blood? Do they feel a loss in having 175 millions in their pockets in 1789, more than they had in 1788? and in possessing another 175 millions more in 1790, and the inheritance in future? Is not such a change ease, wealth, life and animation to those classes who, while the pens of political satirists slander all innovations, are every moment reviving, by inheriting from that revolution something which the old government assuredly did not give? The revenue of the clergy may be called the revenue of the public: those to whom the difference between the present payment of one hundred and forty millions, and the old tithes are a reduction of all revenue, are, beyond doubt, in great distress; but what say the farmers throughout the kingdom, from whom the detestable burthen of those taxes was extorted? Do they find their culture lightened, their industry freed, their products their own? Go to the aristocratical politician in Paris, or at London, and you hear only of the ruin of France—go to the cottage of the *metayer,* or the house of the farmer, and demand of him what the result has been—there will be but one voice from Calais to Bayonne. If tithes were to be at one

stroke abolished in England, no doubt the clergy would suffer, but would not the agriculture of the kingdom, with every man dependent on it, rise with a vigour never before experienced?

TURGOT

Aune Robert Jacques Turgot, Marquis de L'Aulne, was born at Paris, May 10, 1727, the third son of Michel Etienne Turgot and of Madeleine Françoise Martineau. His family, a noble one, is said to have been originally Scottish, but had long been settled in Normandy. His ancestors early abandoned the sword for the robe.

Turgot was a brilliant student and his honorary addresses delivered in 1750 are remarkable for the insight he showed in the development of civilization. He chose the law as against the Church as his profession, but kept up his studies in general culture most of his life. He became deeply interested in the social sciences and joined the group of physiocratic economists headed by Quesnay and Gournay. From 1761 to 1774 he was intendant of the district of Limoges. He found the section and its people in miserable condition, and his administration made him a reputation as a far-sighted, honest and philosophical reformer. Soon after the accession of Louis XIV. Turgot was made minister of marine and a month later minister of finance. His letter accepting the position has become a classic.

September 13, 1774, he re-established free trade in grain within the kingdom and abolished a number of private monopolies and exclusive privileges. It is a fact peculiar to French history that he found some of the most formidable opposition in the parliament. In fact, one of the worst features in France before the revolution was the government of the parliaments in the different districts. In January, 1776, he proposed to abolish the corvee (forced labor on the roads) and suppress entirely the trade corporations with exclusive privileges. The courtiers, nobility, clergy and trade corporations all combined against him and the King was not firm enough to support him. He was dismissed May 12, 1776. He died at Paris March 18, 1781.

If he could have been let to carry through his reforms it is unques-

tionable that he could have saved France from a revolution, abolished the feudal privileges that were throttling the "third estate" and saved Louis XIV. his kingdom, but the wrongs of the people were too long established to be righted without a revolution.

ON ACCEPTING OFFICE

Compiègne, August 24, 1774.

SIRE—Having just come from the private interview with which your Majesty has honoured me, still full of the anxiety produced by the immensity of the duties now imposed upon me, agitated by all the feelings excited by the touching kindness with which you have encouraged me, I hasten to convey to you my respectful gratitude and the devotion of my whole life.

Your Majesty has been good enough to permit me to place on record the engagement you have taken upon you to sustain me in the execution of those plans of economy which are at all times, and to-day more than ever, of an indispensable necessity. I would have desired the opportunity of developing to you the reflections suggested to me by the present position of the finances; but time does not permit of that, and I reserve myself to explain that position more fully when I shall have taken more exact measure of it. At this moment, Sire, I confine myself to recall to you these three words:—

No Bankruptcy.
No Increase of Taxes.
No Loans.

No bankruptcy, either avowed or disguised by illegal reductions.

No increase of taxes; the reason for this being in the condition of your people, and still more, in that of your Majesty's own generous heart.

No loans; because every loan diminishes always the free revenue and necessitates, at the end of a certain time, either bankruptcy or the increase of taxes. In times of peace it is permissible to borrow only in order to liquidate old debts, or in order to redeem other loans contracted on less advantageous terms.

To meet these three points there is but one means. It is to reduce expenditure below revenue, and sufficiently below it to insure each year a saving of twenty millions, to be applied in redemption of the old debts. Without that, the first gunshot will force the State to bankruptcy.

The question will be asked incredulously, "On what can we retrench?" and each one, speaking for his own department, will maintain that nearly every particular item of expense is indispensable. They will be able to allege very good reasons, but these must all yield to the absolute necessity of economy.

It is, then, of absolute necessity for your Majesty to require that the heads of all the departments should concert with the Minister of Finance. It is indispensable that he should discuss with them, in presence of your Majesty, the degree of necessity for all your proposed expenses. It is above all necessary, as soon as you, Sire, shall have decided upon the strictly necessary scale of maintenance of each department, that you prohibit the official in charge of it to order any new expenditure without having first arranged with the treasury the means of providing for it. Without this, each department will charge itself with debts, which will become your Majesty's debts, and your Minister of Finance will be unable to answer for the balance between expenditure and income.

Your Majesty is aware that one of the greatest obstacles to economy is the multitude of demands by which you are constantly besieged, and which have been unfortunately sanctioned by the too great facility of your predecessors to entertain them. It is necessary, Sire, to arm yourself against your kindheartedness by your own increased sense of the same virtue; to consider whence comes to you this money which you are able to distribute among your courtiers, and to compare the misery of those from whom it has to be extracted (sometimes by the most rigorous methods) with the situation of the class of persons who push their claims on your liberality.

There are certain favours which, it is thought, you can more easily grant, because they do not bear immediately on the royal treasury. Of this kind are the interests, the *croupes* (covert partnerships) and privileges; they are of all concessions the most dangerous and the most subject to abuse. Every profit made on the taxes which is not absolutely necessary for their collection is in reality a debt due to the taxpayers or to the needs of the State. Besides, these participations in the profits of the farmers of the revenue are a source of corruption for the nobility and of vexation for the people, by giving to all such abuses powerful and secret protectors.

It may reasonably be hoped by the improvement of cultivation, by the suppression of abuses in the collection of the taxes, and by their more equitable assessment, that a substantial relief of the people can be

attained without diminishing greatly the public revenue; but without economy being the first step all reforms are impossible. So long as finance shall be continually subject to the old expedients in order to provide for State services, your Majesty will always be dependent upon financiers, and they will ever be the masters, and by the manœuvres belonging to their office they will frustrate the most important operations. Thus the Government can never feel itself at ease, it can never be acknowledged as able to sustain itself, because the discontents and impatience of the people are always the means made use of by intriguing and ill-disposed men in order to excite disturbance. It is, then, upon economy that, above all, the prosperity of your reign depends; that the tranquility of your kingdom, the respect held for it by other powers, the happiness of the nation and your own happiness, depend.

I must impress on your Majesty that I take office at a conjuncture beset by great difficulties, by serious disquietude prevalent respecting the sustenance of the people; a disquietude aggravated by the fermentation that has been active in the public mind for some years, by the want of uniformity in the principles of the administrators, and by some really imprudent operations on their part, and more than all aggravated by the occurrence of a harvest below the average. On this subject, as on others, I do not expect your Majesty to adopt my principles without first having them thoroughly examined and discussed, as well by yourself as by persons in your Council in whose judgment you have confidence. But when you shall have once recognized the justice and necessity of these principles, I implore you to maintain with firmness their execution, without allowing yourself to be dismayed by the clamours which are absolutely certain to arise on such matters, whatever system we adopt, whatever line of conduct we pursue.

These are the matters which I have been permitted to recall to your Majesty. You will not forget that in accepting the place of Comptroller-General I have felt the full value of the confidence with which you honour me; I have felt that you entrust to me the happiness of your people, and, if it be permitted to me to say so, the care of promoting among your people the love of your person and your authority.

At the same time, I feel all the danger to which I expose myself. I foresee that I shall be alone in fighting against abuses of every kind, against the power of those who profit by these abuses, against the crowd of prejudiced people who oppose themselves to all reform, and who are such powerful instruments in the hands of interested parties for perpetuating the disorder. I shall have to struggle even against

the natural goodness and generosity of your Majesty, and of the persons who are most dear to you. I shall be feared, hated even, by nearly all the Court, by all who solicit favours. They will impute to me all the refusals; they will describe me as a hard man because I shall have advised your Majesty that you ought not to enrich even those you love at the expense of your people's subsistence. And this people, for whom I shall sacrifice myself, are so easily deceived that perhaps I shall encounter their hatred by the very measures I take to defend them against exactions. I shall be calumniated (having, perhaps, appearances against me) in order to deprive me of your Majesty's confidence. I shall not regret losing a place which I never solicited. I am ready to resign it to your Majesty as soon as I can no longer hope to be useful in it. . . .

Your Majesty will remember that it is upon the faith of your promises made to me that I charge myself with a burden perhaps beyond my strength, and it is to yourself personally, to the honest man, the just and good man, rather than to the king, that I give myself.

I venture to repeat here what you have already been kind enough to hear and approve of. The affecting kindness with which you condescended to press my hands within your own, as if sealing my devotion, will never be effaced from my memory. It will sustain my courage. It has forever united my personal happiness with the interest, the glory, and the happiness of your Majesty. It is with these sentiments that I am, Sire, etc.

SIEYÈS

Emmanuel Joseph Sieyes was born at Fréjus, May 3, 1748. He was educated at a Jesuit school, became a licentiate of the canon law and was appointed vicar-general by the bishop of Chartres. He first came into prominence with the publication of his pamphlet, entitled "*Qu'est ce que le thiers etat?*" In 1789 he was elected delegate to the states-general from Paris, and in the preliminary struggle for organization was made spokesman of the third estate. The policy indicated in his pamphlet was that which was actually carried out in the conservative period of the Revolution. As the Revolution progressed

Sieyès dropped out of sight, and had the good fortune to escape destruction. When asked, at a later period, what he had done during the Terror, he summed up his whole experience in the words: "I existed." In 1795 he again came forward, and was appointed member of a commission to draft a new constitution. His views did not obtain prominence in the constitution of 1795, and he refused to accept a position in the directory of the new government.

Sieyès took part with Napoleon in the *coup d'etat* of the 18th Brumaire, and made one of the provisional consulate with Napoleon and Ducos. Later on he was made a count of the empire and given extensive estates as a reward for his services to France. This marks Sieyès' final retirement from public life. He fled to Brussels on the second return of the Bourbons, returned after the revolution of 1830, and died in Paris, June 20, 1836.

"WHAT IS THE THIRD ESTATE?"

What is necessary that a nation should subsist and prosper? Individual effort and public functions.

All individual efforts may be included in four classes: 1. Since the earth and the waters furnish crude products for the needs of man, the first class, in logical sequence, will be that of all families which devote themselves to agricultural labor. 2. Between the first sale of products and their consumption or use, a new manipulation, more or less repeated, adds to these products a second value more or less composite. In this manner human industry succeeds in perfecting the gifts of nature, and the crude product increases two-fold, ten-fold, one hundred-fold in value. Such are the efforts of the second class. 3. Between production and consumption, as well as between the various stages of production, a group of intermediary agents establish themselves, useful both to producers and consumers; these are the merchants and brokers; the brokers who, comparing incessantly the demands of time and place, speculate upon the profit of retention and transportation; merchants who are charged with distribution, in the last analysis, either at wholesale or at retail. This species of utility characterizes the third class. 4. Outside of these three classes of productive and useful citizens, who are occupied with real objects of consumption and use, there is also need in a society of a series of efforts and pains, whose objects are directly useful

or agreeable to the individual. This fourth class embraces all those who stand between the most distinguished and liberal professions and the less esteemed services of domestics.

Such are the efforts which sustain society. Who puts them forth? The Third Estate.

Public functions may be classified equally well, in the present state of affairs, under four recognized heads; the sword, the robe, the church and the administration. It would be superfluous to take them up one by one, for the purpose of showing that everywhere the Third Estate attends to nineteen-twentieths of them, with this distinction: that it is laden with all that which is really painful, with all the burdens which the privileged classes refuse to carry. Do we give the Third Estate credit for this? That this might come about, it would be necessary that the Third Estate should refuse to fill these places, or that it should be less ready to exercise their functions. The facts are well known. Meanwhile they have dared to impose a prohibition upon the order of the Third Estate. They have said to it: "Whatever may be your services, whatever may be your abilities, you shall go thus far; you may not pass beyond!" Certain rare exceptions, properly regarded, are but a mockery, and the terms which are indulged in on such occasions, one insult the more.

If this exclusion is a social crime against the Third Estate; if it is a veritable act of hostility, could it perhaps be said that it is useful to the public weal? Alas! who is ignorant of the effects of monopoly? If it discourages those whom it rejects, is it not well known that it tends to render less able those whom it favors? Is it not understood that every employment from which free competition is removed, becomes dearer and less effective?

In setting aside any function whatsoever to serve as an *appanage* for a distinct class among citizens, is it not to be observed that it is no longer the man alone who does the work that it is necessary to reward, but all the unemployed members of the same caste, and also the entire families of those who are employed as well as those who are not? Is it not to be remarked that since the government has become the patrimony of a particular class, it has been distended beyond all measure; places have been created, not on account of the necessities of the governed, but in the interests of the governing, etc., etc.? Has not attention been called to the fact that this order of things, which is basely and—I even presume to say—beastly respectable with us, when we

find it in reading the History of Ancient Egypt or the accounts of Voyages to the Indies, is despicable, monstrous, destructive of all industry, the enemy of social progress; above all degrading to the human race in general, and particularly intolerable to Europeans, etc., etc.? But I must leave these considerations, which, if they increase the importance of the subject and throw light upon it, perhaps along with the new light, slacken our progress.

It suffices here to have made it clear that the pretended utility of a privileged order for the public service is nothing more than a chimera; that with it all that which is burdensome in this service is performed by the Third Estate; that without it the superior places would be infintiely better filled; that they naturally ought to be the lot and the recompense of ability and recognized services, and that if privileged persons have come to usurp all the lucrative and honorable posts, it is a hateful injustice to the rank and file of citizens and at the same time a treason to the public weal.

Who then shall dare to say that the Third Estate has not within itself all that is necessary for the formation of a complete nation? It is the strong and robust man who has one arm still shackled. If the privileged order should be abolished, the nation would be nothing less, but something more. Therefore, what is the Third Estate? Everything; but an everything shackled and oppressed. What would it be without the privileged order? Everything, but an everything free and flourishing. Nothing can succeed without it, everything would be infinitely better without the others.

It is not sufficient to show that privileged persons, far from being useful to the nation, cannot but enfeeble and injure it; it is necessary to prove further that the noble order does not enter at all into the social organization; that it may indeed be a burden upon the nation, but that it cannot of itself constitute a nation.

In the first place, it is not possible in the number of all the elementary parts of a nation to find a place for the caste of nobles. I know that there are individuals in great number whom infirmities, incapacity, incurable laziness, or the weight of bad habits, render strangers to the labors of society. The exception and the abuse are everywhere found beside the rule. But it will be admitted that the less there are of these abuses, the better it will be for the State. The worst possible arrangement of all would be where not alone isolated individuals, but a whole class of citizens should take pride in remaining

motionless in the midst of the general movement, and should consume the best part of the product without bearing any part in its production. Such a class is surely estranged to the nation by its indolence.

The noble order is not less estranged from the generality of us by its civil and political prerogatives.

What is a nation? A body of associates, living under a common law, and represented by the same legislature, etc.

Is it not evident that the noble order has privileges and expenditures which it dares to call its rights, but which are apart from the rights of the great body of citizens? It departs there from the common order, from the common law. So its civil rights make of it an isolated people in the midst of the great nation. This is truly *imperium in imperio.*

In regard to its political rights, these also it exercises apart. It has its special representatives, which are not charged with securing the interests of the people. The body of its deputies sit apart; and when it is assembled in the same hall with the deputies of simple citizens, it is none the less true that its representation is essentially distinct and separate: it is a stranger to the nation, in the first place, by its origin, since its commission is not derived from the people; then by its object, which consists of defending not the general, but the particular interest.

The Third Estate embraces then all that which belongs to the nation; and all that which is not the Third Estate, cannot be regarded as being of the nation. What is the Third Estate? It is the whole.

CAHIER

Of the grievances, complaints and remonstrances of the members of the Third Estate of the bailliage of Versailles.

CONSTITUTION.

ART. 1. The power of making laws resides in the king and the nation.

ART. 2. The nation being too numerous for a personal exercise of this right, has confided its trust to representatives freely chosen from all classes of citizens. These representatives constitute the national assembly.

Art. 3. Frenchmen should regard as laws of the kingdom those alone which have been prepared by the national assembly and sanctioned by the king.

Art. 4. Succession in the male line and primogeniture are usages as ancient as the monarchy, and ought to be maintained and consecrated by solemn and irrevocable enactment.

Art. 5. The laws prepared by the States General and sanctioned by the king shall be binding upon all classes of citizens and upon all provinces of the kingdom. They shall be registered literally and accurately in all courts of law. They shall be open for consultation at all seats of municipal and communal government; and shall be read at sermon time in all parishes.

Art. 6. That the nation may not be deprived of that portion of legislation which is its due, and that the affairs of the kingdom may not suffer neglect and delay, the States General shall be convoked at least every two or three years.

Art. 7. No intermediate commission of the States General may ever be established, since deputies of the nation have no right to delegate the powers confirmed to them.

Art. 8. Powers shall be conferred upon delegates for one year only; but they may be continued or confirmed by a single re-election.

Art. 9. The persons of deputies shall be inviolable. They may not be prosecuted in civil cases during their term of office; nor held responsible to the executive authorities for any speech made in the assembly; but they shall be responsible to the States General alone.

Art. 10. Deputies of the Third Estate, or their president or speaker, shall preserve the same attitude and demeanor as the representatives of the two upper orders, when they address the sovereign. As regards the three orders there shall be no difference observed in the ceremonial made use of at the convocation of the estates.

Art. 11. Personal liberty, proprietary rights and the security of citizens shall be established in a clear, precise and irrevocable manner. All *lettres de cachet* shall be abolished for ever, subject to certain modifications which the States General may see fit to impose.

Art. 12. And to remove forever the possibility of injury to the personal and proprietary rights of Frenchmen, the jury system shall be introduced in all criminal cases, and in civil cases for the determination of fact, in all the courts of the realm.

Art. 13. All persons accused of crime not involving the death

penalty shall be released on bail within twenty-four hours. This release shall be pronounced by the judge upon the decision of the jury.

Art. 14. All persons who shall have been imprisoned upon suspicion, and afterwards proved innocent, shall be entitled to satisfaction and damages from the state, if they are able to show that their honor or property has suffered injury.

Art. 15. A wider liberty of the press shall be accorded, with this provision alone: that all manuscripts sent to the printer shall be signed by the author, who shall be obliged to disclose his identity and bear the responsibility of his work; and to prevent judges and other persons in power from taking advantage of their authority, no writing shall be held a libel until it is so determined by twelve jurors, chosen according to the forms of a law which shall be enacted upon this subject.

Art. 16. Letters shall never be opened in transit; and effectual measures shall be taken to the end that this trust shall remain inviolable.

Art. 17. All distinctions in penalties shall be abolished; and crimes committed by citizens of the different orders shall be punished irrespecively, according to the same forms of law and in the same manner. The States General shall seek to bring it about that the effects of transgression shall be confined to the individual, and shall not be reflected upon the relatives of the transgressor, themselves innocent of all participation.

Art. 18. Penalties shall in all cases be moderate and proportionate to the crime. All kinds of torture, the rack and the stake, shall be abolished. Sentence of death shall be pronounced only for atrocious crimes and in rare instances, determined by the law.

Art. 19. Civil and criminal laws shall be reformed.

Art. 20. The military throughout the kingdom shall be subject to the general law and to the civil authorities, in the same manner as other citizens.

Art. 21. No tax shall be legal unless accepted by the representatives of the people and sanctioned by the king.

Art. 22. Since all Frenchmen receive the same advantage from the government, and are equally interested in its maintenance they ought to be placed upon the same footing in the matter of taxation.

Art. 23. All taxes now in operation are contrary to these principles and for the most part vexatious, oppressive and humiliating to the people. They ought to be abolished as soon as possible, and replaced by others common to the three orders and to all classes of citizens, without exception.

Art. 24. In case the present taxes are provisionally retained, it should be for a short time, not longer than the session of the States General, and it shall be ordered that the proportional contribution of the two upper orders shall be due from them on the day of the promulgation of the law of the constitution.

Art. 25. After the establishment of the new taxes, which shall be paid by the three orders, the present exceptional method of collecting from the clergy shall be done away with, and their future assemblies shall deal exclusively with matters of discipline and dogma.

Art. 26. All new taxes, real and personal, shall be established only for a limited time, never to exceed two or three years. At the expiration of this term, they shall be no longer collected, and collectors or other officials soliciting the same shall be proceeded against as guilty of extortion.

Art. 27. The anticipation of future revenues, loans in whatsoever disguise, and all other financial expedients of the kind, of which so great abuse has been made, shall be forbidden.

Art. 28. In case of war, or other exceptional necessity, no loan shall be made without the consent of the States General, and it shall be enacted that no loan shall be effected, without provision being made by taxation for the payment of interest, and of the principal at a specified time.

Art. 29. The amount which each citizen shall be obliged to pay, in case of war, by reason of an increase in the existing taxes, at a certain rate per livre, shall be determined beforehand by the States General in conjunction with the king. The certainty of increase ought to have a marked effect in preventing useless and unjust wars, since it clearly indicates to Frenchmen the new burden they will have to bear, and to foreign nations the resources which the nation has in reserve and at hand to repulse unjust attacks.

Art. 30. The exact debt of the government shall be established by the States General, and after verification it shall be declared the national debt.

Art. 31. Perpetual and life annuities shall be funded at their present value.

Art. 32. The expenses of the departments shall be determined by their actual needs, and so established by a committee of the States General, in such a manner that the expenditures may never exceed the sums appropriated.

Art. 33. There shall be no increase in taxation, until the receipts and expenditures have been compared with the utmost care, and a real deficit discovered; in fact, not until all possible reductions have been made in the expenses of each department.

Art. 34. The expenses of the war department call for the special attention of the States General. These expenses mount annually to the appalling sums of 110 and 120 millions. In order to effect their reduction, the States General shall demand the accounts of this department under the recent ministries, particularly under the ministry of the Duc de Choiseul.

Art. 35. The present militia system, which is burdensome, oppressive and humiliating to the people, shall be abolished; and the States General shall devise means for its reformation.

Art. 36. A statement of Pensions shall be presented to the States General; they shall be granted only in moderate amounts, and then only for services rendered. The total annual expenditure for this purpose should not exceed a fixed sum. A list of pensions should be printed and made public each year.

Art. 37. Since the nation undertakes to provide for the personal expenses of the sovereign, as well as for the crown and state, the law providing for the inalienability of the domain shall be repealed. As a result, all the domanial possessions immediately in the king's possession, as well as those already pledged, and the forests of his majesty as well, shall be sold, and transferred in small lots, in so far as possible, and always at public auction to the highest bidder; and the proceeds applied to the reduction of the public debt. In the meanwhile all woods and forests shall continue to be controlled and administered, whoever may be the actual proprietors, according to the provisions of the law of 1669.

Art. 38. The execution of this law shall be confided to the provincial estates, which shall prosecute violations of the law before judges in ordinary.

Art. 39. Apanages shall be abolished and replaced, in the case of princes who possess them, with cash salaries, which shall be included in the expenses of the crown.

Art. 40. The States General shall take under advisement these transfers which have not yet been verified and completed.

Art. 40b. Ministers and all government officials shall be responsible to the States General for their conduct of affairs. They may be

impeached according to fixed forms of laws and punished according to the statute.

Art. 41. All general and particular statements and accounts relative to the administration shall be printed and made public each year.

Art. 42. The coinage may not be altered without the consent of the Estates; and no bank established without their approval.

Art. 43. A new subdivision shall be made of the provinces of the realm; provincial estates shall be established, members of which, not excepting their presidents, shall be elected.

Art. 44. The constitution of the provincial estates shall be uniform throughout the kingdom, and fixed by the States General. Their powers shall be limited to the interior administration of the provinces, under the supervision of his majesty, who shall communicate to them the national laws which have received the consent of the States General and the royal sanction: to which laws all the provincial estates shall be obliged to submit without reservation.

Art. 45. All members of the municipal assemblies of towns and villages shall be elected. They may be chosen from all classes of citizens. All municipal offices, now existing, shall be abolished; and their redemption shall be provided for by the States General.

Art. 46. All offices and positions, civil, ecclesiastical and military, shall be open to all orders; and no humiliating and unjust exception (in the case of the third estate), destructive to emulation and injurious to the interests of the state, shall be perpetuated.

Art. 47. The right of *aubaine* shall be abolished with regard to all nationalities. All foreigners, after three years residence in the kingdom, shall enjoy the rights of citizenship.

Art. 48. Deputies of French colonies in America and in the Indies, which form an important part of our possessions, shall be admitted to the States General, if not at the next meeting, at least at the one following.

Art. 49. All relics of serfdom, agrarian or personal, still remaining in certain provinces, shall be abolished.

Art. 50. New laws shall be made in favor of the negroes in our colonies; and the States General shall take measures toward the abolition of slavery. Meanwhile let a law be passed, that negroes in the colonies who desire to purchase their freedom, as well as those whom their masters are willing to set free, shall no longer be compelled to pay a tax to the domain.

Art. 51. The three functions, legislative, executive and judicial, shall be separated and carefully distinguished.

The communes of the bailliage of Versailles have already expressed themselves in respect to the necessity of adopting the form of deliberation *per capita* in the coming States General. The reform of the constitution will be one of their principal duties. This magnificent monument of liberty and public felicity should be the work of the three orders in common session; if they are separated, certain pretensions, anxieties and jealousies are bound to arise; the two upper orders are likely to oppose obstacles, perhaps invincible, to the reform of abuses and the enactment of laws destined to suppress such abuses. It seems indispensable that in this first assembly votes should be taken *per capita* and not by order. After the renunciation by the two upper orders of their pecuniary privileges; after all distinctions before the law have been abolished; when the exclusion of the third estate from certain offices and positions has been done away with,—then the reasons which to-day necessitate deliberation *per capita* will no longer exist.

The communes of Versailles therefore refrain from expressing a positive opinion upon the future composition of the national assemblies and upon the method of their deliberation. They defer, with all confidence, the decision of this important question to the wisdom of the States General.

Our prayer is that the methods determined upon shall be such as will assure forever, to the king and to the nation those portions of the legislative power which respectively belong to them; that they shall maintain between them a perfect equilibrium in the employment of this power; that they shall conserve, forever, to the nation in rights and liberties; to the king his prerogatives and the executive power in all its fulness. Finally that these methods should be so combined as to produce that circumspectness and lack of haste so necessary to the enactment of laws, and that they will effectually prevent all hasty counsels, dissentions amongst deputies and immature conclusions.

May all deputies to this august assembly, impressed with the sanctity and extent of their obligations, forget that they are the mandatories of some special order, and remember only that they are representatives of the people. May they never be forgetful of the fact, that they are about to fix the destinies of the foremost nation of the world!

The Executive

Art. 52. It shall be ordained by the constitution that the executive power be vested in the king alone.

Art. 53. The king shall dispose of all offices, places and positions, ecclesiastical, civil and military, to which he has at present the right of appointment.

Art. 54. All the provincial estates, or commissions representing them, shall receive his immediate orders which it shall be their duty to obey provisionally.

Art. 55. His consent shall be necessary to all bills approved by the States General in order that they may acquire the force of law throughout the realm. He may reject all bills presented to him, without being obliged to state the reasons of his disapproval.

Art. 56. He shall have the sole right of convening, proroguing and dissolving the States General.

The Judiciary

Art. 57. The sale of the judicial office shall be suppressed as soon as circumstances will permit, and provision made for the indemnification of holders.

Art. 58. There shall be established in the provinces as many superior courts as there are provincial estates. They shall be courts of final jurisdiction.

Art. 59. All exceptional and privileged seignorial courts shall be abolished, as well as other courts rendered useless by the abolition of certain taxes which caused their erection, and by the adoption of a new system of accounts under the exclusive control of the States General.

Art. 60. All rights of *Committimus* or of evocation, which tend to favor certain classes of citizens to the detriment of the general public, shall be abolished.

Art. 61. There shall be only two stages of jurisdiction.

Art. 62. Since the adoption of the jury system will have a tendency to facilitate and simplify the administration of justice, all classes of judges shall be reduced to the least number possible.

Art. 63. Each judge of the lower courts and of the superior provincial courts shall be appointed by the king out of a list of three candidates, presented by the provincial estates.

Art. 64. Judges of all courts shall be obliged to adhere to the letter of the law and may never be permitted to change, modify or interpret it at their pleasure.

Art. 65. The fees received by all officers of justice shall be fixed at a moderate rate and clearly understood; and judges who extort fees in excess of the fixed rates shall be condemned to pay a fine of four times the amount they have received.

Such are the bases of a constitution founded upon the eternal principles of justice and reason, which alone ought to regulate henceforward the government of the realm. Once they are adopted, all false pretensions, all burdensome privileges, all abuses of all kinds will be seen to disappear. Already a considerable number of *bailliages* have expressed their desires concerning the reforms and abolitions to be effected in all branches of the administration; the necessity for these drastic changes has been so evident that it is sufficient merely to indicate them.

General Demands

Art. 66. The deputies of the *prevote* and *vicomte* of Paris shall be instructed to unite themselves with the deputies of other provinces, in order to join with them in securing, as soon as possible, the following abolitions:

Of the *taille;*
Of the *gabelle;*
Of the *aides;*
Of the *corvee;*
Of the *ferme* of tobacco;
Of the registry-duties;
Of the free-hold tax;
Of the taxes on leather;
Of the government stamp upon iron;
Of the stamps upon gold and silver;
Of the interprovincial customs duties;
Of the taxes upon fairs and markets;

Finally, of all taxes that are burdensome and oppressive, whether on account of their nature or of the expense of collection, or because they have been paid almost wholly by agriculturists and by the poorer classes. They shall be replaced with other taxes, less complicated and easier of collection, which shall fall alike upon all classes and orders of the state without exception.

Art. 67. We demand also the abolition of the royal preserves (*capitaineries*);

Of the game laws;
Of jurisdictions of *prerotes;*
Of *banalites;*
Of tolls;
Of useless authorities and governments in cities and provinces.

Art. 68. We solicit the establishment of public granaries in the provinces, under the control of the provincial estates, in order that by accumulating reserves during years of plenty, famine and excessive dearness of grain, such as we have experienced in the past may be prevented.

Art. 69. We solicit also the establishment of free schools in all country parishes.

Art. 70. We demand, for the benefit of commerce, the abolition of all exclusive privileges:

The removal of customs barriers to the frontiers;

The most complete freedom in trade;

The revision and reform of all laws relative to commerce;

Encouragement for all kinds of manufacture: viz. premiums, bounties and advances:

Rewards to artisans and laborers for useful inventions.

The communes desire that prizes and rewards shall always be preferred to exclusive privileges, which extinguish emulation and lessen competition.

Art. 71. We demand the suppression of various hindrances, such as stamps, special taxes, inspections; and the annoyances and visitations, to which many manufacturing establishments, particularly tanneries, are subjected.

Art. 72. The States General are entreated to devise means for abolishing gild organizations, indemnifying the holders of masterships; and to fix by law the conditions under which the arts, trades and professions may be followed, without the payment of an admission tax, and at the same time to provide that public security and confidence be undisturbed.

Art. 73. Deputies shall solicit the abolition of:

Receivers of consignments;

Pawn-brokers;

All lotteries;

The bank of Poissy;

All taxes, of whatsoever nature, on grain and flour;

All franchises and exemptions enjoyed by post-agents, except a pecuniary indemnity which shall be accorded them;

The exclusive privilege of the transportation companies, which shall be allowed to continue their public service, in competition, however, with all private companies, which shall see fit to establish public carriages; and these moreover shall be encouraged.

Art. 74. They shall demand complete freedom of transport for grain among the various provinces of the kingdom, without interference from any court whatsoever.

Art. 75. They shall demand also the total abolition of all writs of suspension and of safe conducts.

Art. 76. Superior courts shall be absolutely prohibited from arresting, in any manner whatsoever, by means of decrees or decisions obtained upon petitions not made public, the execution of notarial writs or the decisions of judges of original jurisdiction, when the law shall ordain their provisional execution; under penalty that the judge shall be responsible for the amount of the debt, payment of which he has caused to be arrested.

Art. 77. The abolition of all places of refuge for debtors.

Art. 78. That no merchant or trader may be admitted to any national assembly or any municipal body, who has demanded abatement from his creditors; still less if he is a fraudulent bankrupt; and he may not be re-established in his rights until he has paid the whole amount of his indebtedness.

Art. 79. That individuals who have issued promissory notes shall be liable to detention.

Art. 80. That the States General shall consider means of diminishing mendicancy.

Art. 81. That civil and military offices may not be held simultaneously by the same person, and that each citizen may hold only one office.

Art. 82. That all the honorary rights of nobles shall be maintained; but that they shall be allowed to hunt only upon their own lands, and not upon the lands of their vassals or tenants.

Art. 83. That nobility may be acquired neither through office or by purchase.

Art. 84. That inheritances shall be divided equally among co-heiritors of the same degree, without regard to sex or right of primogeniture, nor to the status of the co-participants, and without distinction between nobles and non-nobles.

Art. 85. That all entails shall be limited to one generation.

Art. 86. That day laborers may not be taxed to exceed the amount of one day's labor.

Art. 87. That there shall be established in all towns and country parishes commissions of arbitration, composed of a certain number of citizens elected and renewed annually, to which persons may apply and

secure provisional judgment, without expense, except in case of appeal to the regular courts.

Art. 88. That all state prisons shall be abolished, and that means shall be taken to put all other prisons in better sanitary condition.

Art. 89. That it may please the States General to provide means for securing a uniformity of weights and measures throughout the kingdom.

Art. 90. That the laws upon *lods* and *ventes* shall be examined and rendered uniform throughout the kingdom.

Art. 91. That parishes shall be furnished with power to redeem the tax upon the transfer of land.

Art. 92. That *dimes* shall be suppressed and converted into a money rent based upon the price of corn and of the mark of silver, rising proportionately with the combined increase in value of corn and of the mark of silver.

Art. 93. Since clergymen in general ought not to occupy themselves with worldly affairs, there ought to be provided for bishops, archbishops and all holders of benefices a decent income and one suitable to their dignity: accordingly the property of the church in each province ought to be sold under the supervision of the provincial estates, which shall assume the duty of paying to holders of benefices the sums accorded to them by the States General.

Art. 94. That in case the above change should not be made, then it shall be ordained that no clergymen may hold two benefices at the same time, and that all persons now possessing two or more benefices shall be obliged to choose and to declare, within a prescribed time, which one of them they desire to retain.

Art. 95. That all commendatory abbacies, benefices without functions and useless convents shall be suppressed, their possessions sold for the benefit of the state, and the funds thus realized made to constitute an endowment, the income of which shall be used for the benefit of country parish priests for the establishment of free schools, hospitals and other charitable institutions.

Art. 96. That continuous residence of archbishops and bishops in their dioceses and of beneficiaries in the benefices shall be required; and that resignations be not permitted.

Art. 97. That no clergyman under the age of twenty-five may be promoted to a sub-deaconate.

Art. 98. That girls may not enter religious orders until after they are twenty-five years of age, nor men until after thirty.

Art. 99. That it be forbidden to go to the Roman Curia for provisions, nominations, bulls and dispensations of all kinds; and each bishop in his diocese shall have full powers in these matters.

Art. 100. That the right of the pope to grant livings in France be suppressed.

Art. 101. That the Concordat be revoked, and all intervention on the part of the Roman Curia be made to cease.

Art. 102. That loans, contracted by the clergy to cover their contribution to the taxes which they were bound to support, shall be paid by them, since these loans are the obligation of the order; but loans which have been contracted on the government's account shall be included in the royal debt, and added to the national debt.

Various Matters

Art. 1. Deputies of the *prevote-vicomte* shall be instructed to demand increased pay for soldiers.

Art. 2. That inhabitants of towns and rural places be paid and indemnified for troops of war quartered upon them, for the transportation of troops and of military baggage.

Art. 3. That the ordinances concerning the king's guard be revised, particularly those clauses which abolish the wise provision of Louis XIV. for the safety of his person, and the regulations made by him relative to his body-guard.

Art. 4. That barbarous punishments, taken from the codes of foreign nations and introduced into the new military regulations, be abolished, and replaced with regulations more in conformity with the genius of the nation.

(*Articles* 5, 6, *and* 7 *relate to notarial and registry fees.*)

Art. 8. That it be permitted to contract loans by means of bills or short-term certificates of debt, bearing interest at the legal rate, without it being necessary to alienate the capital so pledged.

Art. 9. In case the property of the church be not sold, that leases shall be continued by the successors of the present holders; at least that they shall not suffer a reduction of more than one-third.

Art. 10. That canals be constructed in all provinces of the kingdom where they will be useful.

Art. 11. That the working of mines be encouraged.

Art. 12. That a new schedule be made of the expenses of funerals, marriages and other church functions.

Art. 13. That cemeteries be located outside of cities, towns and villages; that the same be done with places of deposit for refuse.

Art. 14. That the funds for the support of the lazarettos, formerly located in rural parishes, having been united with the endowments of hospitals, country people shall be permitted to send their sick to the city hospitals.

Art. 15. That the laws of the kingdom shall be equally the laws of the French colonies.

Art. 16. That all kinds of employment suitable for women shall be reserved for them by special enactment.—Archives Parlementaires, Vol. V., pp. 180-185.

DECREE OF THE NATIONAL ASSEMBLY ABOLISHING THE FEUDAL SYSTEM, AUGUST 11, 1789

Article I. The National Assembly hereby completely abolishes the feudal system. It decrees that in the case of rights and dues, both feudal and *censuel,* all those originating in real or personal serfdom (*mainmorte*) or personal servitude as well as the rights and dues representing these, shall be abolished without any indemnification. All other dues are declared redeemable, the terms and mode of redemption to be fixed by the National Assembly. Those of the said dues which are not extinguished by this decree shall continue to be collected until indemnification shall take place.

II. The exclusive right to maintain pigeon-houses and dove-cotes is abolished. The pigeons shall be confined during the seasons fixed by the community. During such time they shall be looked upon as game, and every one has the right to kill them upon his own land.

III. The exclusive right to hunt and to maintain unenclosed warrens is likewise abolished, and every land owner has the right to kill or have destroyed on his own land all kinds of game, observing, however, such police regulations as may be established with a view to the safety of the public.

All hunting *captaineries,* including the royal forests, and all hunting rights [*reserve de chasse*] under whatever denomination, are likewise abolished. Provision shall be made, in a manner compatible with the

regard due to property and liberty, for maintaining the personal pleasures of the king.

The president of the assembly shall be commissioned to ask of the king the recall of those sent to the galleys or exiled simply for violation of the hunting regulations, as well as for the release of those at present imprisoned for offences of this kind, and the dismissal of such cases as are now pending.

IV. All manorial courts are hereby suppressed without indemnification. But the magistrates of these courts shall continue to perform their functions until such time as the National Assembly shall provide for the establishment of a new judicial system.

V. Tithes of every description, as well as the dues which have been substituted for them, under whatever denomination they are known or collected (even when compounded for), possessed by secular or regular congregations, by holders of benefices, members of corporations [*gens de mainmorte,*] including the Order of Malta and other religious and military orders, as well as those devoted to the maintenance of churches, those impropriated to lay persons and those substituted for the *portion congrue,* are abolished, on condition, however, that some other method be devised to provide for the expenses of divine worship, the support of the officiating clergy, for the assistance of the poor, for repairs and rebuilding of churches and parsonages, and for the maintenance of all institutions, seminaries, schools, academies, asylums, and organizations to which the present funds are devoted. Until such provision shall take place and the former possessors shall enter upon the enjoyment of an income on the new system, the National Assembly decrees that the said tithes shall continue to be collected according to law and in the customary manner.

Other tithes, of whatever nature they may be, shall be redeemable in such manner as the Assembly shall determine. Until such regulation shall be issued the National Assembly decrees that these, too, shall continue to be collected.

VI. All perpetual ground rents payable either in money or in kind, of whatever nature they may be, whatever their origin and to whomsoever they may be due, as to members of corporations, holders of the domain or of appanages or to the Order of Malta, shall be redeemable. *Champarts* of every kind and under all denominations shall likewise be redeemable at a rate fixed by the Assembly. No due shall in the future be created which is not redeemable.

VII. The sale of judicial and municipal offices shall be suppressed forthwith. Justice shall be dispensed *gratis*. Nevertheless, the magistrates at present holding such offices shall continue to exercise their functions and to receive their emoluments until the Assembly shall have made provision for indemnifying them.

VIII. The fees of the country priests are abolished, and shall be discontinued so soon as provision shall be made for increasing the minimum salary [*portion congrue*] of the parish priests and the payment to the curates [*vicaires*]. A regulation shall be drawn up to determine the status of the priests in the towns.

IX. Pecuniary privileges, personal or real, in the payment of taxes are abolished forever. Taxes shall be collected from all the citizens, and from all property, in the same manner and in the same form. Plans shall be considered by which the taxes shall be paid proportionally by all, even for the last six months of the current year.

X. Inasmuch as a national constitution and public liberty are of more advantage to the provinces than the privileges which some of these enjoy, and inasmuch as the surrender of such privileges is essential to the intimate union of all parts of the realm [*empire*], it is decreed that all the peculiar privileges of the provinces, principalities, districts [*pays*], cantons, cities and communes, either pecuniary or of any other description, are once for all abolished and are absorbed into the law common to all Frenchmen.

XI. All citizens, without distinction of birth, are eligible to any office or dignity, whether ecclesiastical, civil, or military, and no profession shall imply any derogation.

XII. Hereafter no remittances shall be made for annates or for any other purpose to the courts of Rome, the vice-legation at Avignon, or to the nunciature at Lucerne. The clergy of the diocese shall apply to their bishops in regard to the filling of benefices and dispensations, the which shall be granted *gratis* without regard to reservations, expectancies and papal months, all the churches of France enjoying the same freedom.

XIII. The rights of *deport*, of *cotte-morte, depouilles, vacat, droits censaux*, Peter's pence, and other dues of the same kind, under whatever denomination, established in favor of bishops, arch-deacons, arch-presbyters, chapters, and regular congregations which formerly exercised priestly functions [*cures primitifs*] are abolished, appropriate provision being made for those benefices of arch-deacons and arch-presbyters which are not sufficiently endowed.

XIV. Pluralities shall not be permitted hereafter in cases where the revenue from the benefice or benefices held shall exceed the sum of three thousand livres. Nor shall any individual be allowed to enjoy several pensions from benefices or a pension and a benefice if the revenue which he already enjoys from such sources exceeds the same sum of three thousand livres.

XV. The National Assembly shall consider in conjunction with the king, the report which is to be submitted to it relating to pensions, favors, and salaries, with a view to suppressing all such as are not deserved and reducing those which shall prove excessive, the amount being fixed which the king may in the future disburse for this purpose.

XVI. The National Assembly decress that a medal shall be struck in memory of the recent grave and important deliberations for the welfare of France, and that a *Te Deum* shall be chanted in gratitude in all the parishes and churches of France.

XVII. The National Assembly solemnly proclaims the king, Louis XVI., the *Restorer of French Liberty.*

XVIII. The National Assembly shall present itself in a body before the king, in order to submit to him the decrees which have just been passed, to tender to him the tokens of its most respectful gratitude and to pray him to permit the *Te Deum* to be chanted in his chapel, and to be present himself at this service.

XIX. The National Assembly shall consider, immediately after the constitution, the drawing up of the laws necessary for the development of the principles which it has laid down in the present decree. The latter shall be transmitted without delay by the deputies to all the provinces, together with the decree of the tenth of this month, in order that it may be printed, published, announced from the parish pulpits, and posted up wherever it shall be deemed necessary.—*Buchez et Roux, Histoire Parlementaire ii, p.* 259 *ff.*

DECLARATION OF THE RIGHTS OF MAN AND OF THE CITIZEN

THE REPRESENTATIVES of the French people, organized as a national assembly, believing that the ignorance, neglect or contempt of the rights of man are the sole causes of public calamities and of the corruption of governments, have determined to set forth in a solemn declaration, the natural, inalienable and sacred rights of man, in order that this declaration, being constantly before all the members of the social body, shall remind them continually of their rights and duties; in order that the acts of the legislative power, as well as those of the executive power, may be compared at any moment with the ends of all political institutions and may thus be more respected; in order that the grievances of the citizens, based hereafter upon simple and incontestable principles, shall tend to the maintenance of the constitution and redound to the happiness of all. Hence the National Assembly recognizes and proclaims in the presence and under the auspices of the Supreme Being the following rights of man and of the citizen:

Article 1. Men are born and remain free and equal in rights. Social distinctions can only be founded upon the general good.

2. The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.

3. The principle [*principe*] of all sovereignty resides essentially in the nation. No body nor individual may exercise any authority which does not proceed directly from the nation.

4. Liberty consists in being able to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights. These limits can only be determined by law.

5. Law can only prohibit such actions as are hurtful to society. Nothing may be prevented which is not forbidden by law, and no one may be forced to do anything not provided for by law.

6. Law is the expression of the general will. Every citizen has a right to participate personally or through his representative in its formation. It must be the same for all, whether it protects or punishes. All citizens being equal in the eyes of the law are equally eligible to all dignities and to all public positions and occupations according to their abilities and without distinction except that of their virtues and talents.

7. No person shall be accused, arrested or imprisoned except in the cases and according to the forms prescribed by law. Any one soliciting, transmitting, executing or causing to be executed any arbitrary order shall be punished. But any citizen summoned or arrested in virtue of the law shall submit without delay, as resistance constitutes an offence.

8. The law shall provide for such punishments only as are strictly and obviously necessary, and no one shall suffer punishment except it be legally inflicted in virtue of a law passed and promulgated before the commission of the offence.

9. As all persons are held innocent until they shall have been declared guilty, if arrest shall be deemed indispensable all severity not essential to the securing of the prisoner's person shall be severely repressed by law.

10. No one shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law.

11. The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write and print with freedom, being responsible, however, for such abuses of this freedom as shall be defined by law.

12. The security of the rights of man and of the citizen requires public military force. These forces are, therefore, established for the good of all and not for the personal advantage of those to whom they shall be entrusted.

13. A common contribution is essential for the maintenance of the public forces and for the cost of administration. This should be equitably distributed among all the citizens in proportion to their means.

14. All the citizens have a right to decide either personally or by their representatives as to the necessity of the public contribution, to grant this freely, to know to what uses it is put, and to fix the proportion, the mode of assessment, and of collection, and the duration of the taxes.

15. Society has the right to require of every public agent an account of his administration.

16. A society in which the observance of the law is not assured nor the separation of powers defined has no constitution at all.

17. Property being an inviolable and sacred right, no one shall be deprived thereof except where public necessity, legally determined shall clearly demand it, and then only on condition that the owner shall have been previously and equitably indemnified.—*Buchez et Roux, Histoire Parlementaire, ii, p. 404 ff.*

MIRABEAU

THE CONDITION OF AFFAIRS

A MEMOIR DRAWN UP BY THE COUNT OF MIRABEAU

After the events of the 5th and 6th of October, 1789, and delivered by the Count of La Marck to Monsieur the Count of Provence, the King's brother, October 15.

The king could not refuse to come to Paris, and whether the National Assembly could have refused to follow him or not, it had not in any case the power to detain him. Is the king free in Paris? He is in the sense that no foreign will has taken the place of his own, but he is certainly not at liberty to leave Paris. He may not select those who guard his person, he cannot even exercise any direct control over the militia [*milice*] to whom his safety is confided. The National Assembly is free in Paris so far as its deliberations are concerned, but it could not adjourn to another town in the kingdom, nor can it guarantee to the delegate of the nation more freedom than he already has.

The position of the king is obviously prejudicial to the success of the revolution. The condition of affairs is not such that the decrees of the Assembly and the sanction or acceptance of the monarch, which is inseparably connected with them, may be looked upon as the result of compulsion, as the enemies of the revolution never tire of repeating to the people. But this state of affairs offers a pretext for disobedience, leads to protests, furnishes hopes and supplies a means for leading even

the best intentioned citizens astray, and may serve as a cloak for the schemes of the parlements and of the nobility. Two protests have already appeared, the attitude of some of the provinces is doubtful, and the obedience of some of the commanders of the troops is uncertain. All this is sufficient to show how important it is to the safety of the state that no excuse should be left to the ill-intentioned if the revolution is to be peacefully consummated.

Will the king enjoy in Paris even entire personal security? Placed as he is the least mischance may compromise his safety! It is threatened by external movements, commotions within, party divisions, the errors of enthusiasm and of impatience, and, above all, by the violent collision of the capital with the provinces. Although Paris is powerful it contains many causes for disturbance. Its inhabitants, when excited, are irresistible. Winter is approaching and food may be wanting. Bankruptcy may be declared. What will Paris be three months hence? Assuredly a poor-house, perhaps a theatre of horrors. Is it to such a place that the head of the nation should entrust his existence and our only hope?

The ministers are without resources. Only one of them enjoys any popularity and he has always been supported rather by certain enthusiastic admirers than by a party. But his resources are well known, and he has just shown himself in his true light. His empty brain has never contemplated more than to prop up here and there an edifice which is giving away at every point. He is anxious to prolong the death agony until the moment he has chosen for his political retirement when, as in 1781, he plans to leave an assumed balance between the receipts and expenditures, and some millions in the Royal Treasury. Whether his plan succeeds or not, his success cannot extend beyond a few months, and this destructive financier can only give Paris a moment's breathing space by ruining the kingdom. This is not a mere conjecture, but is a result reached with the certainty of a mathematical demonstration. What will become of the nation after this useless attempt which renders bankruptcy inevitable? We are only weary and discouraged as yet; it is the moment of despair which is to be feared.

The provinces are not dismembered, but they are watching each other suspiciously, and incipient disunion portends a storm. The transfer of provisions is more and more interrupted. The number of discontented is increased as an unavoidable result of even the best advised decrees of the Assembly. A nation must, in the last analysis, be meas-

ured by the work it does, but the nation is out of the habit of work. Public strength lies only in public opinion, and in the revenues of the state. But every bond of public opinion is severed. Only the direct taxes are paid at all, and these only partially, although the half of our taxes are indirect. Several years will be required to replace what six months have just destroyed, and the impatience of the people, which is increased by their misery, is apparent on every hand.

A still more fatal emergency is to be anticipated. The National Assembly, which is so badly constituted in principle, composed as it is of discordant factions laboriously brought together, can see that each day the confidence in its work is diminishing. The best intentions do not prevent mistakes. The Assembly is forced to deviate from its proper policy owing to the unfortunate fact that it declared its earlier decrees irrevocable and now, not venturing to contradict itself or to retrace its steps, it thus finds another hindrance of its own creation in the way of its power. The respect which a great name and a great revolution seen from afar inspires, as well as hope, so essential to the people, still sustains it. But each day this great cause is deserted by a portion of those who make public opinion, although it demands the closest co-operation of every faction and party in the realm. The people are, moreover, only informed of the almost inevitable mistakes of a legislative body which is too numerous, whose footing is insecure and which has gone through no apprenticeship; no emphasis being laid upon the ease with which such mistakes could be corrected by the next legislature. A commotion is secretly preparing which may cause the loss in a single day of the fruits of the most severe effort. The body politic is on the point of dissolution. It must have a transfusion of new blood.

The only way to save the state and the nascent constitution is to put the king in a position which will allow him, without delay, to unite with his people.

Paris has long swallowed up the taxes of the kingdom. Paris is the seat of the financial regime which the provinces loathe. Paris has created the debt. Paris by its miserable stock-gambling has destroyed public credit, and has compromised the honor of the nation. Must the National Assembly, too, regard this city only and sacrifice the whole kingdom for it? Several provinces fear that the capital will dominate the Assembly and direct the course of its work. Paris demands only certain financial measures, while the provinces care only for agriculture and farming. Paris cares only for money, the provinces require laws.

The dissensions between Paris and the provinces are clearly recognized, and will break forth on the least excuse.

What then is to be done? Is the king free? His freedom is not complete, nor is it recognized. Is the king safe? I do not think so. Can Paris even save him alone? No; Paris is lost if she is not brought to order and forced to moderation. The necessity of supplies places her at the mercy of the rest of the kingdom, and her inevitable ruin would result from a prolongation of the anarchic tyranny in which only her deceiving and deceived leaders, who are forced into a policy of unmeasured innovation by their own excesses, have any interest. Will the National Assembly finish its session without being harassed by the disturbances which a thousand circumstances lead us to anticipate? He would be bold certainly, who should guarantee this!

Should no successful effort be made to give another direction to public opinion, to enlighten the people as to their true interests, to prepare, by instructions given to constituents, the spirit of the new legislature, will the state recover its tranquility, the army its strength, the executive power its influence and the monarch his real rights, whose exercise is essential to public liberty? Or will the monarchy be shaken to its foundation and very probably dismembered, that is to say, dissolved? It is easy to foresee what is to be apprehended by what has already happened. Other measures must obviously be taken, all the facts point to this.

Several methods present themselves, but there are those which would entail the most terrible evils and which I only mention to deter the king from a course which would mean certain destruction. To withdraw to Metz—or upon any other frontier, would be to declare war upon the nation and abdicate the throne. A king, who is the only safeguard of his people, does not fly before his people. He accepts them as the judge of his conduct and principles. He does not sever at a stroke all the bonds which unite them to him. He does not excite all manner of suspicion against himself, nor does he place himself in a position where he can only re-enter his possessions with arms in his hands, or be reduced to suplicate foreign aid.

Who can say to what a state of frenzy the French nation might be aroused if it saw its king abandoning it in order to join a group of exiles and become one of them himself, or how it would prepare for resistance and oppose the forces he might collect. Even I should denounce the monarch after such an act.

To withdraw into the interior of the kingdom and call together the entire nobility, would be a policy no less hazardous. Justly or not, the whole nation, which in its ignorance confuses nobility and aristocracy, has long looked upon the gentry *en masse* as their implacable enemies. The abolition of the feudal system was the expiation of ten centuries of madness. The disturbance might have been lessened, but now it is too late and the decree is irrevocable. To join the nobility would be worse than for the king to throw himself into a foreign and hostile army. He has to choose between a great nation and a few individuals, between peace and civil war carried on upon exceedingly unequal terms.

Would the king's safety be assured should he choose this alternative? A body of nobility is not an army which can fight, nor is it a province which can intrench itself. Would not the greater part of this nobility have their throats cut even before they could be brought together? Would not their possessions have been already annihilated? Should the nobility be called together in order to induce them to consent to new sacrifices, the deadly blow would be dealt before any explanation or understanding could take place. If, on the other hand, it were the plan to allow them to retain everything which general opinion and more enlightened reason has abolished in the way of their exemptions and privileges, is it possible that peace and the collection of the taxes can be restored within a nation, deluded by this very restoration of the dearest and most just of its hopes?

To withdraw with a view of regaining his liberty, and in order to denounce the Assembly to the people and break off all connections with it, would be a less violent step than the two already mentioned, but in no way less dangerous. It would compromise the king's safety and would likewise precipitate civil war, since a great part of the provinces are willing to defend the decrees of the Assembly—which with all their faults contain more errors of an administrative character than violations of principle—and the people can not fail to see that the Assembly is at bottom very advantageous for them. Moreover, the enlightened portion of this nation knows that it must yield obedience provisionally even to the mistaken decrees of a legislative body, for without this no form of constitution could ever be established. The king would, therefore, have on his side neither the nobility whose passions he would not share, nor his people whose schemes he had not espoused. Or rather the first step, which can not be taken by itself, would entail many others,

and the king would fall into one of the evil plights of which I have just pointed out the danger.

It is certain, in short, that a great revolution is necessary to save the kingdom, that the nation has rights, that it is on the way to recover them all and that it is not sufficient simply to re-establish them but they must be consolidated, that a national convention can alone regenerate France, that the Assembly has already made several laws which it is indispensable to adopt, and that there is no safety for the king and for the state, except in the closest alliance between the monarch and his people.

All the methods which I have mentioned having been rejected, I will make the following observations upon a last proposed plan which is certainly not without peril. But it must not be hoped that escape can be effected from great danger without some risk, and all the powers of statesmen should now be directed towards preparing for, moderating, guiding and tempering the crisis, and not towards preventing one altogether, which is quite impossible. For the crisis can not even be delayed without rendering it more violent.

This last plan can be carried out by the simplest means. The preparations should undoubtedly be made almost to their most trifling details, but they ought not to be communicated to those who are to execute the plan until the final resolution is taken. The minister is not, or at least, is not generally recognized to be, sufficiently well intentioned to make it possible to submit the plan to him. All would be lost if any indiscretion should expose a scheme, which through ignorance of its aim and result might be looked upon as a conspiracy, although the safety of the state is its only aim. No others should be admitted to the secret except those directly concerned in its execution. Having once selected the leaders, they must be allowed perfect liberty in respect to means and the choice of agents for, alas! our misfortune is such that we must proceed with the same mystery in doing good that the enemies of our country employ in injuring it. The following are the most important points:

The way for the king's withdrawal would be prepared and the attitude of the provinces already determined by certain events which can easily be foreseen. It is impossible that the king's real want of freedom, if he attempt to make use of it, should not be clearly proved by refusals or by insulting precautions. It is inevitable that the militia of Paris will exceed their true functions, if the attempt is made to reduce them

to what they should be. It is impossible that if an attempt should be made to negotiate for the entire freedom of the king, even on condition of his remaining in the capital, and the legislative body were appealed to for support, that the true position of the king would not be immediately revealed, and that the National Assembly should not see its own security and even its existence threatened, within the walls of Paris. This would not be the creation of a new order of things but a demonstration of the existing status. Nor is it difficult to foresee that during the delay which the departure of the king may demand we shall see new protests from the parliaments or the towns or other bodies whose ill intentions will second in a sense the public cause by showing more and more clearly the necessity of changing the position of the king. The reason for the departure of the king will then be well enough established. The public safety demands it imperatively.

Several measures should be taken to render the safety of the king's withdrawal not even uncertain. His guards must be systematically scattered. There are a thousand pretexts for arranging the sudden assembling of 10,000 men, composed exclusively of national regiments, which could be stationed in three days at a point nearly equally distant from Rouen and Paris and about twenty or twenty-five leagues from each city. If the provinces, which it is almost impossible to conceive, should misunderstand this step, which the safety of all demands, reliable leaders should be ready to form a second line, capable of repressing the ill-disposed and of cutting off communication with the suspected districts. This precaution would give time to enlighten the people, and public opinion would soon constitute itself the real army of defence. All this can easily be carried out without the aid of the ministers and by means of special influence brought to bear upon the garrisons.

Having taken these precautions, the king may leave the palace in open day and retire to Rouen. He should select this city or its environs, because it is in the centre of the kingdom, because a military position taken up at just this point commands a wide range of waterways, controls the food supply of the only centre of resistance which need be considered, and may change this resistance into benedictions if the beneficence of the king, his efforts and personal sacrifices should succeed in restoring plenty. Rouen is farther to be selected, inasmuch as such a choice proclaims that there is no intention of flight, and that the only object is to conciliate the provinces. Normandy is, moreover, very thickly populated and its inhabitants have more tenacity than other

Frenchmen. It would be easy to unite this province with those of Brittany and Anjou, which would together form in themselves an irresistible force.

Before the king's departure, a proclamation should be prepared, addressed to all the provinces, in which the king should say among other things, that he is about to throw himself into the arms of his people; that violence has been done him at Versailles; that he was in a measure watched at Paris, and was not free to come and go as every citizen is and ought to be. For the truth of these statements proofs should be furnished. The king should say, moreover, that he recognizes that this situation serves as an excuse to the ill disposed not to obey the decrees of the National Assembly and the sanction given by him to these decrees, all of which could easily compromise a revolution in which he is as much interested as the most ardent friends of liberty; that he hopes to be inseparable from his people, and that the selection which he has made of Rouen proves this beyond controversy; that he is the first king of his race who has formed the purpose of investing the nation with all its rights, and that he has persisted in this design in spite of his ministers and the counsels by which princes are corrupted; that he has adopted without reserve such and such decrees of the National Assembly; that he renews his sanction and acceptance, and that his sentiments in this matter are unchangeable. He should say further, that certain other decrees did not seem to him quite favorable enough to his people; that certain others have not, perhaps, been sufficiently maturely considered, and that he is anxious that the nation should have an opportunity of freely reconsidering these matters, without, however, in any way interfering with the provisional observation of decrees already duly passed.

The proclamation should announce that the king is about to call the National Assembly to him in order that it may continue its work, but that he will soon summon a new convention to judge, confirm, modify and ratify the work of the first assembly; that he is desirous above all that the national debt should be sacred; that no compromise is possible, since this is a matter where the honor of the nation, and consequently his own, is concerned; neither is any compromise possible in the matter of the continued existence of the Parlements, which he has always regarded as the greatest scourge of his people, and which the National Assembly has undoubtedly delayed too long in abolishing; that it is time to instruct the nation that these bodies which claimed never

to have acted otherwise than as a barrier against the king's power, were no less the enemy of the nation than of the monarch; that their self-interest and ambition have always been the real motive for their assumed watchfulness; that their true purpose, exhibited by their union with the nobility, with all the discontented elements, and with all the enemies of the public good, is to found their power upon anarchy, to destroy the bonds of obedience, in order to undermine the authority of the king, or to second on occasion his authority in order to place itself in opposition to the nation and to foster, by this balancing and opposition of forces, a judicial aristocracy, which of all forms of corrupt government would obviously be the most tyrannical.

The king should state that he is ready to submit to the greatest personal sacrifices, since there are to be no more promises of economy which are never carried out; that he will live like a private individual; that a million will suffice him for his own personal expenses and those incurred as head of a family: that he asks no more, and requires but a single table for himself and his family; that all the luxury of the throne should consist in the perfecting of the civil government and in the wise liberality of distinctly national outlays; that the creditors of the government are no longer to be deluded with vain promises; that, compelled as they are to submit to payment in partial installments, he asks that the nation pledges at least all available property; that in order to escape from the inextricable confusion of the public finances, he is on the point of issuing a summons to all the creditors of the state, in order to learn the total public indebtedness, and will negotiate with the representatives of these creditors in order to submit something other to them than uncertain and disastrous operations, which can only serve to render the nation more and more apprehensive.

The king should declare that, although he has resolved upon all possible personal sacrifices, he by no means holds that the same retrenchments can be applied to all the payments which have for a long time been granted to a host of citizens who have at present no other means of support, and he requests the nation to consider that public peace is not to be successfully re-established by ruining and driving to despair so many thousand persons; that for the rest he takes his people to witness as to his personal conduct in the past; that he will not subdue them by arms, but by his love; that he confides his honor and safety to French loyalty; that he only wishes the happiness of the citizens; and that his own pleasure is of no further importance. This proclama-

tion of a good king, this peace manifesto at once firm and popular, ought to be forwarded by extraordinary couriers to all of the provinces, and all those in command should be notified to be on their guard.

Another proclamation should be sent to the National Assembly to announce the departure of the king and the choice of a place to which to withdraw with the request to consider whether they too ought not to betake themselves thither. The king should set forth in his letter the reasons which he had for leaving Paris. The Assembly would undoubtedly adjourn to the place indicated by the king if it were free to do so. If after deciding upon this it should be clear that the members were not free to go the session would be *ipsi facto* terminated, even if illegally prolonged. And if the Assembly should continue to deliberate after its want of freedom had been demonstrated, its farther proceedings would all bear the stamp of violence. If the Assembly should vote to continue its sessions at Paris in spite of the decree by which it is declared inseparable from the monarch, such a decision could only be dictated by fear and the want of liberty. But in that case the same influences would be seen in all subsequent deliberations, and would soon be revealed and recognized in the provinces. The existence of a secret constraint would be proved by the confessions of individual members of the Assembly, by their correspondence, by hostile demonstrations at Paris, and there would thus be every reason for convoking a legislative body. In any case the king should take farther measures either through his present ministry or through one he should immediately choose.

Proclamations should follow one another, and the king should by this means instruct his people in their true interests. The public creditors having been called together and organized, it ought to be easy to enter into very fruitful negotiations with them.

The prevailing spirit of the National Assembly will necessarily be partially modified by the alteration of public opinion in the provinces. If any districts should offer resistance, the executive power authorized by the National Assembly should make use of all its forces. All good citizens everywhere would co-operate with the king, and it would soon be clear how potent, with a faithful and generous nation, is the respect and affection for a good prince who has ever desired the good, and who is himself more unhappy than his people.

Here, then, are the ideas which the situation of the kingdom has suggested to me, jotted down hastily, but nevertheless the result of deep reflection. There is one more important suggestion. What moment

should be selected to execute the plan just discussed and which the public safety dictates? Should this be the interval which may occur between this and the second legislature, or should it be the present juncture, that is any moment?

The constitution which will be drawn up during the present session is only provisional, since the Assembly has performed the functions of a convention and no convention can ratify its own work. The various laws issued by the Assembly being also only provisional, since circumstances alone have compelled the Assembly to associate the functions of a legislative body with those of a constitutional convention, it would certainly involve fewer complications if the king should wait until the National Assembly had closed its session before he attempted to enlighten the people and control public opinion.

But aside from the fact that the diversity of opinion in regard to the position of the king, and the inferences which the ill-disposed draw from this, may push both the evil inclined and the Assembly itself to extreme measures and, neglecting the possibility that a thousand occurrences may precipitate a storm in which the personal safety of the king may be jeopardized, it is still to be apprehended that the Assembly will decree that no interval shall occur between the present session and the meeting of the legislative body. The representatives of the general will would certainly be replaced, but public spirit would remain the same. And since the true principles which should reconcile national liberty with the monarchy are being neglected, and the effort is not being made to bring about an alliance between the executive and legislative powers, without which a state like France cannot exist, without which a tempestuous freedom would leave as the only choice, despotism or anarchy, it is clear that the present moment, although more perilous, at least for the first few hours, is nevertheless the only one which can be attended with any measure of success. What time should be selected? Any time and yet no rigidly determinable instant. Great revolutions have almost always failed by reason of precipitation and impatience. Several occurrences have been enumerated which may facilitate the departure of the king. Other precautions have been indicated which should be taken as soon as these occurrences shall have furnished new means of fixing public opinion. The instant when all these elements shall seem fully developed to the eyes of reason and wisdom, will be the moment for departure.

Even to-day the project should be put into execution. That is to

say, from this moment preparations should be gradually made. The farther proofs of the absence of freedom in the case of the king and the want of power in the case of the National Assembly to secure this freedom for him; a more complete knowledge of the intentions of the militia of Paris, and of the pretexts which the enemies of the public good would draw from the king's position, are preparations which depend only on events. The fulfillment of these conditions should precede any final decision as to the moment of departure. The necessary conditions will naturally merge into the preparations for the departure themselves, as for example, the orders to be given on the frontiers, the collecting and disposition of the little army, the dispersing of the guards, the drawing up of the proclamation to be addressed to the provinces and to the Assembly.

The only point upon which the king should be inflexible is the refusal to enter into any plan which has not for its single aim the peace and safety of the state and the inseparability of monarch and people. This inseparability is felt in the heart of every Frenchman. It must be realized in action and in the forces of the state.—*Correspondance entre Mirabeau et le Comte de la Marck,* I., pp. 364-382. Translated by James Harvey Robinson, Penn., Trans. and Rep., I., 5.

ORIGIN OF THE JACOBIN CLUB

After the transfer of the Assembly to Paris, the deputies from provinces which were distant from the capital, and who for the most part had never visited Paris (for traveling was not so easy then as it is now), experienced a sort of terror at the idea of being alone and, so to speak, lost in the midst of this huge city. They almost all, consequently, endeavored to lodge as near as possible to the Assembly, which then sat near the Feuillants (at the point where the Rue Rivoli and the Rue Castiglione intersect) in order that they might be easily found in case of necessity. But they were desirous that there should also be a place where they might meet to agree upon the direction of public matters. They applied to residents of the capital in whom they had confidence; a search was made in the neighborhood of the Assembly and the refectory of Convent of the Jacobins was leased for two hundred francs a

year. The necessary furniture, which consisted of chairs and tables for the committee, was procured for a like sum.

At the first session about one hundred deputies were present, the next day double that number. The Baron de Menou was elected President, and Target, Barnave, Alexandre Lameth Le Chapelier and Adrien du Port were elected secretaries, as well as three others whose names have escaped me. A committee was chosen to drawn up a list of regulations: Barnave was the chairman. The society determined on the name, *Friends of the Constitution.* It was determined that all the members of the Assembly should be admitted, but only such other persons should be received as had published useful works. The first to be thus received were Condorcet, the Marquis de Casotte, a distinguished economist, the Abbé Lecamus, a mathematician, and a small number of other savants or publicists.

The aim of the Society of the Friends of the Constitution was to discuss questions which were already or were about to be placed upon the calendar of the National Assembly. It cannot be denied that inasmuch as the non-deputies exercised no influence upon these discussions, they often had more force and brilliancy than in the Assembly itself, where one found himself hindered by the violent contradictions of the right wing and often intimidated by a crowd of spectators. This preliminary consideration shed a great deal of light upon the discussions. The resolve to decide within the society itself by preliminary ballots on the nominees for president, secretaries and the committees of the assembly proved a great advantage to the popular party. For from that time the elections were almost always carried by the left, although up to that time they had been almost entirely controlled by the right. Camus, an ecclesiastical lawyer, then president and since become a Republican, had been elected by the aristocracy.

The number of the deputies who customarily frequented the Society of the Friends of the Constitution quickly rose to nearly four hundred. The number of writers also increased in a marked ratio. But it was not long before the condition of having published a useful book was no longer required for admission to the Society, and it was decided that it was sufficient to have been recommended by six members. The organization then grew larger, and no longer possessed the same solidity in its composition. Very soon the place of meeting became insufficient, and permission was obtained of the monks of the convent to meet in their library and later in their church.

Along in December, 1789, many of the leading inhabitants of the provinces, having come to Paris either on private business or to follow more closely the course of public affairs, had themselves introduced at the society and expressed a desire to establish similar ones in the chief cities of France. For they felt that these associations of citizens intent upon defending the cause of public interest would form an efficient means of counteracting the violent opposition of the aristocracy, which had not yet lost the power which it had so long exercised.—Alexandre de Lameth, *L'histoire de l'Assemblee Constituante,* i, p. 422. Quoted by Aulard, *Societe des Jacobins,* i, p. xix f.,

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